



CRL MP(MD) No.655 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the Twelfth day of February Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL MP(MD) No.655 of 2024

IN

CRL OP(MD) No.21593 of 2023

M.KARUPPIAH

... PETITIONER/DE-FACTO COMPLAINANT

Vs

1 THE INSPECTOR OF POLICE
NILAKOTTAI POLICE STATION,
DINDIGUL DISTRICT.
(CRIME NO.265 OF 2023)

... RESPONDENT/RESPONDENT NO.1
/DE JURE COMPLAINANT

2 VELMURUGAN

3 ESWARI

4 PANCHAVARNAM

5 KUMARESAN

... RESPONDENTS/PETITIONERS/ACCUSED

Criminal Miscellaneous Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to cancel the anticipatory bail granted to the R2 to R5 by the order dt.30.11.2023 in CrI.O.P. (MD).No.21593 of 2023.

Order : This Criminal Miscellaneous petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.SENTHILNATHAN.N, Advocate for the petitioner and of MR.P.KOTTAICHAMY, Government Advocate (CrI.Side) on behalf of the 1st Respondent and of MR.M.BASKAR, Advocate on behalf of the Respondent Nos.2 to 5, the court made the following order:-



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This petition has been filed to cancel the anticipatory bail granted to the respondents 2 to 5, vide order of this Court dated, 30.11.2023 in CrI.O.P.(MD) No.21593 of 2023.

2.The case of the prosecution is that due to property dispute, the petitioners herein abused the defacto complainant in filthy language, assaulted him and criminally intimidated him and also caused damage to the compound wall. Hence the case.

3.The learned counsel for the petitioner would submit that this Court granted anticipatory bail to the respondents 2 to 5 on 30.11.2023 with a condition that the respondents 2 to 5 should execute the sureties before the Judicial Magistrate, Nilakottai, within a period of fifteen days from the date on which the order copy made ready and the order copy was despatched on 05.12.2023. Till date, the respondents 2 to 5 have neither executed the sureties nor complied with the conditions imposed by this Court. He would further submit that during the pendency of this petition, the respondents 2 to 5 filed an application for extension of time on 29.01.2024 and the same was processed on 06.02.2024, which is beyond the period of 10 days, which has been filed to drag on the cancellation of anticipatory bail petition. Hence, he pray for cancelling the anticipatory bail.

4.The learned counsel for the respondents 2 to 5 would submit that due to their ill health, they are not able to execute the sureties at the relevant point of time.

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Accordingly, he prayed for dismissal of this petition.

5. This Court has perused the materials available on record.

6. Section 439 (2) of Cr.P.C. clothes the Court with the power to deal with issue relating to cancellation of bail. The Supreme Court has enumerated the following supervening factors that justify cancellation of bail :-

- i) Interference or attempt to interfere with the due course of administration of justice;
- ii) Evasion or attempt to evade the due course of justice;
- iii) Abuse of the concession granted to the accused;
- iv) Possibility of the accused absconding;
- v) Likelihood of/actual misuse of bail;
- vi) Likelihood of the accused tampering with the evidence or threatening witnesses;
- vii) Other supervening circumstances, which have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by being on bail.

7. The Courts should be more rigid in its examination of violation and proof of violation in matters relating to cancellation of bail. Various decisions of the Hon'ble Apex Court vests the courts with power and discretion to cancel bail even when there



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are no supervening circumstances and broadly classified, they could be brought

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under the following heads :-

- i) Where the court granting bail ignores relevant material and takes into account irrelevant material of substantial nature and not trivial nature;
- ii) Where the court granting bail overlooks the position of the accused qua the victim especially if the accused is in some position of authority such as a policeman and there is prima facie, a misuse of position and power, including over the victim.
- iii) Where the court granting bail ignores the past criminal record and conduct of the accused while granting bail;
- iv) Where bail has been granted on untenable grounds;
- v) Where the order granting bail suffers from serious infirmities resulting in miscarriage of justice;
- vi) Where the grant of bail was not appropriate in the first place, given the very serious nature of the charges against the accused which disentitles him for bail and thus cannot be justified;
- vii) When the order granting bail is apparently whimsical, capricious and perverse in the facts of the given case.

(Emphasis Supplied)



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8. From the above, it is amply evident that even if there are no supervening circumstances, even then, the Courts are empowered to cancel the bail granted to the accused.

9. It is seen from the records that this Court granted anticipatory bail to the respondents 2 to 5 on 30.11.2023 and the order copy was made ready on 05.12.2023. However, the respondents 2 to 5 have failed to comply with the conditions imposed by this Court.

10. It is trite that bail is the norm and jail is exception. However, it should not be lost sight of that while granting anticipatory bail, the courts should weigh all the factors associated with the case while considering the anticipatory bail application of the accused. Prima facie satisfaction should be based on the hypotheses of just and reasonableness and not on mere ipsi dixit of the court.

11. The decision of the Hon'ble Supreme Court in the case of Daulat Ram - Vs - State of Haryana (1995 (1) SCC 349) comes to the aid of this Court, wherein the Hon'ble Supreme Court has held that once supervening circumstances are brought to the notice of the Court, then the Court is clothed with power to revisit the bail granted to an accused.

12. In view of the above circumstances, this Court has no hesitation to cancel the anticipatory bail granted to the respondents 2 to 5. Accordingly, the anticipatory bail granted to the respondents 2 to 5 in Crl.O.P.(MD)No.21593 of 2023, dated 30.11.2023,

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is hereby cancelled and this criminal miscellaneous petition is allowed.

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Sub-Assistant Registrar (C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SJI

TO

- 1 THE JUDICIAL MAGISTRATE, NILAKOTTAI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, DINDIGUL DISTRICT.
- 3 THE INSPECTOR OF POLICE, NILAKOTTAI POLICE STATION,
DINDIGUL DISTRICT.
- 4 THE SUB INSPECTOR OF POLICE, NILAKOTTAI POLICE STATION,
DINDIGUL DISTRICT.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.N.SENTHILNATHAN, Advocate (SR-1739[I] dated 12/02/2024)

ORDER IN

CRL MP(MD) No.655 of 2024
IN CRL OP(MD) No.21593 of 2023
Date :12/02/2024

RS/GS/SAR-(27.02.2024) 6P 7C

Madurai Bench of Madras High Court is issuing
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