



CRL OP(MD) No.1069 of 2024

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

Tuesday, the Thirteenth day of February Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.1069 of 2024

THOMAS

... PETITIONER / DEFACTO ACCUSED

Vs

1 THE INSPECTOR OF POLICE
KODANKULAM POLICE STATION,
TIRUNELVELI DISTRICT,
CRIME NO.627/2023

... RESPONDENTS No.1/COMPLAINANT

2 KAWASKAR @ ANTONY XAVIER KAWASKAR,

3 BHAVYAN @ BABIS

4 VIMAL

5 ANSALIS @ ANTONY ANGELIS

6 KAMAL

... RESPONDENTS No.2 TO 6/ ACCUSED No.1 TO 5

Criminal Original 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 respondent no.2 to 6 in CrI.MP.No.182/2024 dated 05.01.2024 by the learned Principal District judge, Tirunelveli in connection with the Crime No.627/2023 on the file of the 1st respondent police.



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ORDER: This Criminal Original petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.K.SUYAMBULINGABHARATHI, Advocate for the petitioner and of MR.P.KOTTAICHAMY, Government Advocate (Crl.Side) on behalf of the 1st Respondent and Mr.S.SIVAPRAKASH, Advocate for the respondents 2 to 6, the Court made the following order:-

This Petition has been filed under Section 439(i)(b) of Code of Criminal Procedure to set aside the order made in Crl.M.P.No.182 of 2024 dated 05.01.2024 on the file of the III Additional District and Sessions Court, Tirunelveli, and to cancel the anticipatory bail granted therein.

2. The petitioner is a defacto complainant and he made a complaint before the respondent Police as against the private respondents, stating that they unlawfully assembled and attacked the defacto complainant with stick and stone, thereby caused severe injuries to the defacto complainant. Hence, the respondent Police registered a case in Crime No.627 of 2023 for the offences punishable under Sections 147, 294(b), 341, 323, 506(ii) of IPC. When the defacto complainant was taking treatment as in-patient, suppressing the same, the private respondents filed an anticipatory bail application before the III Additional District and Sessions Court, Tirunelveli and the same was allowed on 05.01.2024. But, on 05.01.2024, the defacto complainant was taking treatment in the hospital and he was discharged only on



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01.02.2024. The private respondents ought to have informed the same to the concerned trial Court, while obtaining the anticipatory bail, but suppressing the above facts, they obtained anticipatory bail. Challenging the same, the present petition has been filed seeking cancellation of anticipatory bail granted to the private respondents.

3. The learned counsel appearing for the private respondents would submit that the concerned Court had granted anticipatory bail on 05.01.2024 to the private respondents on the ground that the injured is discharged from the hospital, they have no previous case at their credit and it is a family dispute. It is the duty of the respondent Police to inform the Court with regard to the treatment period of the defacto complainant, in which, the private respondents are not the responsible persons. He would further submit that there must be a supervening circumstance for cancellation of anticipatory bail. However, there is no supervening circumstances. Hence, he prays to dismiss this petition.

4. The learned Government Advocate (Crl.Side) would submit that the concerned Prosecutor ought to have informed the Court that the defacto complainant was taking treatment and he was not discharged from the hospital at



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the relevant point of time, when anticipatory bail was granted to the private respondents.

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5. Heard the learned counsel for the petitioner, the learned counsel for the respondent/accused as well as the learned Government Advocate (Crl.Side) and perused the materials available on record.

6. The present cancellation of anticipatory bail petition has been filed only on the ground that the defacto complainant was discharged from the hospital only on 01.02.2024. But, the private respondents were granted anticipatory bail by the concerned trial Court, vide order dated 05.01.2024 on the ground that the defacto complainant was already discharged from the hospital. However, the concerned Prosecutor ought to have informed the Court that the defacto complainant was taking treatment at the relevant point of time, in which, the private respondents are not the responsible persons. No supervening circumstances were brought to the notice of this court as enumerated by the Apex Court in the case of *Daulat Ram - Vs - State of Haryana (1995 (1) SCC 349)* and therefore, the prayer as sought for by the petitioner cannot be acceded to.



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7. For the reason aforesaid, the petition seeking to cancel the anticipatory bail granted to the private respondents cannot be sustained and, accordingly, the same is dismissed.

sd/-
13/02/2024

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/03/2024

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

INDU
TO

- 1 THE PRINCIPAL DISTRICT JUDGE,
TIRUNELVELI.
- 2 THE INSPECTOR OF POLICE
KODANKULAM POLICE STATION,
TIRUNELVELI DISTRICT
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN

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Date :13/02/2024

SS/VR/SAR- /26/03/2024/5P/4C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023