



CRL MP(MD) No.742 of 2024

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

Thursday, the Twenty First day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL MP(MD) No.742 of 2024

IN

CRL OP(MD) No.9200 of 2022

SATHISHKUMAR

... Petitioner / Defacto Complainant

Vs

1 THE INSPECTOR OF POLICE
THILAGAR THIDAL POLICE STATION,
MADURAI CITY.

(CRIME NO.273 OF 2022.)

... 1st Respondent / Complainant

2 POTHIRAJA

... 2nd Respondent / Petitioner

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 by this Honble Court in Crl.OP.(MD0.No.9200 of 2022 on 9.3.2023.

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.S.POORNACHANDRAN, Advocate for the petitioner and of Mr.P.KOTTAICHAMY, Government Advocate (Crl. side) on behalf of the Respondent No.1 and of Mr.J.LEO DANIEL KEVIN, Advocate on behalf of the Respondent No.2, the Court made the following order:-



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This criminal miscellaneous petition has been filed to cancel the anticipatory bail granted to the second respondent in CrI.O.P.(MD) No.9200 of 2022 dated 09.03.2023.

2. The case of the prosecution is that the defacto complainant is working as Manager in Keerthy Pharma wherein the petitioner is working as salesman and he misappropriated to the tune of Rs.15,00,000/-. Hence, the case.

3.The learned counsel appearing for the petitioner would submit that this Court granted anticipatory bail to the second respondent on 09.03.2023 with a condition to pay a sum of Rs.4,00,000/- (Rupees Four Lakhs only) to the defacto complainant/petitioner on or before 10.04.2023. However, till date, the second respondent has not paid the said amount to the defacto complainant/petitioner. Hence, he would pray to cancel the anticipatory bail.

4.The learned counsel appearing for the second respondent would submit that for various reasons, he is not able to comply with the condition imposed by this Court.

5.The learned Government Advocate (Crl. side) for the first respondent has not disputed the said fact submitted by the learned counsel for the petitioner.

6.Heard. Perused the materials available on record.

7.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

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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.

8.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 are no supervening circumstances and broadly classified, they could be brought under the following heads :-

- i) Where the court granting bail ignores relevant material



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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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9. 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.

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. In the case on hand, non-compliance of the conditional order passed by this Court definitely is a supervening circumstance, which should weigh in the mind of this Court while dealing with the prayer of the petitioner for cancellation of the said anticipatory bail.

12. In view of the above, the second respondent has failed to comply the condition imposed by this Court and hence, this Court is inclined to cancel the anticipatory bail granted to the second respondent.



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13. Accordingly the anticipatory bail granted to the second respondent in
Crl.O.P.(MD)No.9200 of 2022 dated 09.03.2023 is hereby cancelled and this criminal
miscellaneous petition is allowed.

sd/-
21/03/2024

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/04/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TTA

To

- 1.The Judicial Magistrate No.II,
Madurai.
- 2.Do through the Chief Judicial Magistrate,
Madurai District.
- 3.The Inspector of Police,
Thilagar Thidal Police Station,
Madurai City.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.J.LEO DANIEL KAVIN, Advocate (SR-3517[I] dated 21/03/2024)



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ORDER

IN

CRL MP(MD) No.742 of 2024

IN

CRL OP(MD) No.9200 of 2022

Date :21/03/2024

ED/ GS /SAR- (05/04/2024) 7P / 6C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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