



CRL MP(MD) No.10355 of 2023

WEB COPY

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

Monday, the Eighth day of January Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL MP(MD) No.10355 of 2023

IN

CRL OP(MD) No.11181 of 2023

MANGALESHWARI

... PETITIONER/INTERVENOR/
DEFACTO COMPLAINANT

Vs

1 THE INSPECTOR OF POLICE
EMANESWARAM POLICE STATION,
RAMANATHAPURAM DISTRICT.
CRIME NO.97 OF 2023.

...1ST RESPONDENT/RESPONDENT/
COMPLAINANT

2 K.RAMADOSS

... 2ND RESPONDENT/PETITIONER/
SOLE ACCUSED

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to cancel the pre-arrest bail granted to the 2nd Respondent herein, in the above Crl.OP.(MD).No.11181 of 2023 on 22.6.2023 and pass such other or other orders as this Honble Court.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.SP.VIJAY NIVAS, Advocate for the petitioner and of MR.P.KOTTAICHAMY, Government Advocate (Crl.side) on behalf of the Respondent No.1, the court made the following order:-



CRL MP(MD) No.10355 of 2023

WEB COPY

This Petition has been filed under Section 439(2) of Code of Criminal Procedure to set aside the order made in Crl.M.P.No.11181 of 2023 dated 22.06.2023 on the file of this Court and cancel the anticipatory bail granted therein.

2. The petitioner is a defacto complainant and he made a complaint before the respondent Police as if the respondent/accused Ramadoss executed a sale deed in favour of the petitioner and collected a sum of Rs.5,52,000/-. Thereafter, the property was measured. During measurement, the President of Ariyankottai, namely, Prabu revealed that the said property does not belong to the accused, however, it belongs to some other person. Thereafter, the respondent/accused realised that the property does not belong to him and he agreed to return the amount of Rs.5,52,000/- vide agreement deed, dated 19.09.2021. Thereafter, he neither returned the amount nor identified the property. Hence, the petitioner preferred a complaint before the respondent Police. Against which, the respondent/accused preferred anticipatory bail before this Court on 22.06.2023.

3. This Court had granted anticipatory bail on 22.06.2023, wherein, in paragraph No.4, it is observed that the accused assured to return the entire sale consideration to the defacto complainant. However, in paragraph No.5, it is observed that the



CRL MP(MD) No.10355 of 2023

petitioner's counsel recorded that for the entire amount, the petitioner had already executed another sale deed in favour of the defacto complainant. However, it is seen that no further sale deed was executed in favour of the defacto complainant and deliberately he made a false statement before this Court and obtained anticipatory bail. Hence, the petitioner herein preferred a petition for cancellation of anticipatory bail.

4. The learned counsel for the second respondent would submit that the respondent/accused executed another sale deed in favour of the defacto complainant. However, no sale deed was executed. Earlier sale deed was executed in favour of the petitioner/defacto complainant and the petitioner has identified the property, for which, amendment deed was filed and amendment was also ordered. 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.

5. Heard the learned counsel for the petitioner as well as the learned counsel for the respondent/accused and perused the materials available on record.



CRL MP(MD) No.10355 of 2023

WEB COPY

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



under the following heads :-

WEB COPY

- 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)



CRL MP(MD) No.10355 of 2023

WEB COPY

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. The petitioner is the defacto complainant and he purchased the property from the respondent accused in Survey No.126/1, 126/2 and 130, TS.No.11/1B consisting a plot No.1 in Emeneswaran Pudur, Paramakudi Municipality, Ramanathapuram District. Subsequently, he came to know that the property is not belonged to the respondent/accused and he had already executed another sale deed in favour of several persons, which was revealed by the local President, thereby, he made the complaint. Further, the respondent accused executed a document in favour of the petitioner, as if he will return the amount of Rs.5,52,000/- and the same was observed in paragraph No.4 in Crl.O.P(MD) No.11181 of 2023 and subsequently the respondent/accused made a statement before this Court that he executed another sale deed in favour of the petitioner, but it is not executed.

10. 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



CRL MP(MD) No.10355 of 2023

the notice of the Court, then the Court is clothed with power to revisit the bail granted to an accused.

WEB COPY

11. In the case on hand, without executing another sale deed and without paying any amount, he simply obtained anticipatory bail by way of misrepresentation, which itself 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. In view of the above supervening circumstances, the anticipatory bail granted to the respondent accused is hereby cancelled.

12. Hence, the order passed by this Court in CrI.O.P(MD).No.11181 of 2023, dated 22.06.2023 is set aside and this Criminal Original Petition is allowed. Accordingly, the anticipatory bail was granted in favour of the respondent accused is hereby cancelled.

sd/-
08/01/2024

/ TRUE COPY /

/01/2024
Sub-Assistant Registrar (C.S- I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

indu

<https://www.mhc.tn.gov.in/judis>



CRL MP(MD) No.10355 of 2023

TO
WEB COPY

- 1.The Judicial Magistrate, Paramakudi.
2. -do-Through The Chief Judicial Magistrate, Ramanathapuram District.
- 3.The Inspector of Police,
Emenaswaram Police Station, Ramanathapuram District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.K.MUTHUMALAI, Advocate (SR-450[I] dated 10/01/2024)

ORDER IN
CRL MP(MD) No.10355 of 2023
IN
CRL OP(MD) No.11181 of 2023
Date :08/01/2024

RK/DD (30/01/2024) 8P / 6C

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