



Crl.O.P.(MD)No.14156 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.O.P.(MD)No.14156 of 2024

K.Manikandan

... Petitioner/De-facto complainant

vs.

1.Rafeek Sardar @ Rafeek

... Respondent/Petitioner/ A3

2.The Inspector of Police,
District Crime Branch,
Thoothukudi
(Crime No.19 of 2024)
Complainant

... Respondent/Respondent/

Prayer : Criminal Original Petition filed under Section 439(2) read with Section 483(2) of BNSS, to cancel the bail granted to the 1st respondent by the learned Judicial Magistrate No.IV, Thoothukudi in Crl.M.P.No.14160 of 2024, dated 23.07.2024, within the period stipulated by this Court.

For Petitioner : Mr.G.Radhakrishnan

For R1 : Mr.S.Karthick Ramkumar

For R2 : Mr.R.M.Anbunithi
Additional Public Prosecutor (Crl. Side)



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ORDER

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The present Criminal Original Petition has been filed to cancel the bail granted to the first respondent herein, who is the accused No.3, by the learned Judicial Magistrate No.IV, Thoothukudi in Crl.M.P.No.14160 of 2024 dated 23.07.2024.

2. The allegation in this case is that the petitioner had approached the accused side for shipping his goods. After receiving the payment and sending the goods to the port of destiny at Russia, the accused side had given the airway bill in respect of 6 containers out of 16 containers. With respect to the balance 10 containers, the airway bill was not given, even though the petitioner had paid the amount and hence, the case for cheating.

3. In this case, the accused No.1 is said to be absconding, and in respect of the accused No.2, today only this Court has dismissed the anticipatory bail application. The 1st respondent herein is the Accused No.3. He was already arrested and released on bail by the trial Court.

4. The learned counsel for the petitioner seeks cancellation of the bail on the ground that one of the reasons which is mentioned in the order granting bail as if the



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co-accused had been granted bail in Crl.O.P.(MD)No.11480 of 2023 dated 27.06.2023.

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The learned counsel specifically refers to the paragraph No.6 of the copy of the order of the trial Court, which was issued to him by way of certified copy. It is his contention that the said Criminal Original Petition in Crl.O.P.(MD)No.11480 of 2023, dated 27.06.2023, cannot relate to the present case, because that is relating to the year 2023 and as a matter of fact, that order copy shows that it is in respect of a different case. Therefore, according to him, when bail has been granted on an erroneous premises, the same has to be cancelled by this Court.

5. Per contra, the learned counsel appearing on behalf of the 1st respondent/accused would submit that it is not known as to how in the said order copy, which is produced by the petitioner, such content is there in paragraph No.6. As far as the petitioner is concerned, he has produced yet another certified copy of the very same order, in which, the said averments are not there. Therefore, he would submit that the petitioner did not make any such averment, and neither produced any such orders along with the bail application, and the submissions are made on erroneous premises by the petitioner.

6. Firstly, I have considered the order of the trial court.



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7. Even in the version produced by the petitioner/de-facto complainant, it can be seen that the trial court has enlarged the petitioner on bail citing other reasons also. It is not on the sole reason as if the bail was granted only for the reason of bail being granted to the co-accused in Crl.O.P.(MD)No.11480 of 2023. As such, when the accused No.3 has been arrested and subsequently, is being released on bail by considering various grounds, merely because of one reason, which was mentioned in the order is incorrect, the bail cannot be cancelled. Therefore, I am not inclined to accept the prayer of the petitioner for the cancellation of bail.

8. However, it can be seen that before this Court, two different versions of the order in Crl.M.P.(MD)No.14160 of 2024 is produced by both the sides. The copies of the same are annexed herewith as Annexure 1 and Annexure 2, and both cannot be correct. Unless the matter has been listed once again for hearing in the open Court, and the trial Court had corrected the order, two versions are impossible. Both sides submit that they obtained certified copies. Therefore, a copy of this order along with the copies of Annexure 1 and Annexure 2 shall be forwarded to the Principal District Judge, Thoothukudi with a direction to conduct an enquiry, and find out as to how there can be two different versions of the same bail order, and if any delinquency is found with reference to any person, take appropriate action, and also ultimately



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submit a report to this court.

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9. With the above directions, this Criminal Original Petition stands disposed of.

sd/-

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/10/2024

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

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TO

1.THE JUDICIAL MAGISTRATE NO.IV, THOOTHUKUDI

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, THOOTHUKUDI

3.THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, THOOTHUKUDI

4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

COPY TO

THE PRINCIPAL DISTRICT JUDGE, THOOTHUKUDI

(ENCLOSE COPIES OF THE SAME ARE ANNEXED HEREWITH AS ANNEXURE 1
AND ANNEXURE 2,)

ORDER

IN

CRL OP(MD) No.14156 of 2024

Date :03/10/2024

RK/VR (18/10/2024) 5P / 6C

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

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