



CRL MP(MD) No.13281 of 2023

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

Monday, the Eleventh day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL MP(MD) No.13281 of 2023

IN

CRL OP(MD) No.13848 of 2022

C.RAJ KUMAR

... PETITIONER/DEFACTO COMPLAINANT

Vs

1 MANI

...RESPONDENT/ ACCUSED NO.1

2 THE INSPECTOR OF POLICE
SATTUR TALUK POLICE STATION,
VIRUDHUNAGAR DISTRICT.
CRIME NO. 252 OF 2021

... RESPONDENT/COMPLAINANT

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 order in Crl O.P (MD) No. 13848/2022 dated 10.03.2023 granted in favour of the 1st respondent by this Honble court.

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.ARUMUGAM.C.M, Advocate for the petitioner and of MR.S.BALA KARTHICK, Advocate for the 1st Respondent and MR.P.KOTTAICHAMY, Government Advocate(Crl.side) on behalf of the Respondent No.2, the court made the following order:-



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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.13848 of 2022 dated 10.03.2023 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 that he was cheated by the accused persons to the tune of Rs.43,00,000/-. Hence, the respondent Police registered the case in Crime No.252 of 2021 against the accused persons for the offences punishable under Sections 420, 465, 467, 471, 120(b), 506(i) of IPC. Further, the respondent No.1/accused No.1 was granted anticipatory bail by this Court, vide order dated 10.03.2023 on condition to appear before the respondent Police daily at 10.30 a.m., for a period of four weeks, thereafter, as and when required for interrogation. However, the condition imposed by this Court is not complied by the respondent No.1, hence, the present petition has been filed.

3. The learned Government Advocate (Crl.Side) would submit that in pursuant to the order in Crl.O.P(MD) No.13848 of 2022, the respondent No.1 has appeared not even single day before the respondent Police, hence, the condition imposed by this Court is not complied.



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4. The learned counsel appearing for the respondent No.1 would fairly submit that the respondent No.1 has not appeared before the respondent Police on single day.

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.

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;



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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 :-

- 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;



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- 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)

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 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.



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10. In the case on hand, it is a clear violation of the order passed by this Court in Crl.O.P(MD) No.13848 of 2022 that the respondent No.1 is not complying the condition imposed by this Court even single day, 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.

11. Already this Court observed in Crl.O.P(MD) No.13848 of 2022 as one of the condition that “on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560].”

12. In view of the above supervening circumstances, the anticipatory bail granted to the respondent accused is hereby cancelled.

13. Hence, the order passed by this Court in Crl.O.P(MD).No.13848 of 2022, dated 10.03.2023 is set aside and this Criminal Original Petition is allowed.



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Accordingly, the anticipatory bail was granted in favour of the respondent accused is hereby cancelled.

sd/-
11/03/2024

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/03/2024

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

indu
To

- 1.The Judicial Magistrate No.II,
Sattur, Virudhunagar District.
- 2.Do through the Chief Judicial Magistrate,
Virudhunagar District at Srivilliputhur.
- 3.The Inspector of Police,
Sattur Taluk Police Station, Virudhunagar District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.C.M.ARUMUGAM, Advocate (SR-3046[I] dated 12/03/2024)

ORDER IN
CRL MP(MD) No.13281 of 2023
IN
CRL OP(MD) No.13848 of 2022
Date :11/03/2024

RK/VR (15/03/2024) 7P / 6C

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