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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 01.10.2024

Delivered on : 19.10.2024

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CRL.R.C.(MD).No.944 of 2024

and

CrI.M.P.(MD)No.10428 of 2024

P.Santhanakumar

: Petitioner

Vs.

The Inspector of Police,
Sengottai Police Station,
Tenkasi District.
Crime No.257 of 2022.

: Respondent

PRAYER: Criminal Revision Petition has been filed under Section 438 r/w 442 of BNSS, to call for the entire records connected with the order in Cr.M.P.No.1160 of 2024, dated 19.08.2024 passed by the learned District Munsif cum Judicial Magistrate, Sengottai and set aside the same.

For Petitioner : Mr.S.Malaikani,

For Respondent : Mr.K.Sanjai Gandhi,
Government Advocate (Criminal Side)



ORDER

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The Criminal Revision Case is directed against the order passed in Cr.M.P.No.1160 of 2024, dated 19.08.2024 passed by the learned District Munsif cum Judicial Magistrate, Sengottai, cancelling the bail granted to the petitioner by this Court in CrI.O.P(MD)No.15539 of 2022, dated 13.10.2022, wherein the petitioner was granted anticipatory bail, by imposing conditions.

2. It is evident from the records that the petitioner, apprehending arrest at the hands of the respondent police, has filed an application under Section 438 of Cr.P.C., seeking anticipatory bail as FIR came to be registered against the accused including the petitioner in Crime No.257 of 2022 for the offence under Sections 294(b), 323, 448, 427 and 506(i) IPC and Section 4 of Prohibition Harassment of Women Act and a learned Judge of this Court vide order, dated 13.10.2022 has granted anticipatory bail by imposing some conditions. In the anticipatory bail order, the learned Judge has specifically observed that the jurisdictional Magistrate/trial Court is entitled to take appropriate action against the petitioner in accordance with law on breach of any of the aforesaid conditions, as if the conditions have been imposed and the petitioner was



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 [(2000) AIR SCW 5560]***.

3. It is also not in dispute that the respondent police has subsequently registered a case in Crime No.133 of 2024 for the offence under Sections 147, 148, 294(b), 324, 427, 307, 506(ii) IPC and the petitioner was arrested on 30.04.2024. When the petitioner was in judicial custody in connection with the case registered in Crime No.133 of 2024, the respondent police has moved an application for cancelling the bail granted to him in the case relating to the Crime No.257 of 2022 on the file of the same police station on the ground that the petitioner had involved in another serious offence subsequent to granting of bail. The learned Magistrate, by mainly observing that the petitioner, by involving in the subsequent offence, has violated the bail conditions, has chosen to cancel the bail granted to him.

4. As rightly contended by the learned counsel for the petitioner in the order passed by this Court in CrI.O.P(MD)No.15539 of 2022, this Court has not imposed any conditions that the petitioner should not involve in any other offence specifically, but whereas imposed conditions directing the petitioner to report before the respondent police daily at 10.30 am until



further orders; that the petitioner shall not tamper with evidence or witness either during investigation or trial and that the petitioner shall not abscond either during investigation or trial.

5. It is not the specific case of the prosecution that the petitioner has violated the above conditions imposed by this Court. The learned Magistrate has also not observed that the petitioner has violated the conditions imposed by this Court. Since this Court has delegated the power of cancelling the bail on the ground of breach of any of the conditions imposed by this Court, the learned Magistrate can cancel the bail only on showing breach of any of the conditions imposed by this Court.

6. But in the case on hand, as already pointed out, there is no specific conditions restraining the petitioner that he should not indulge in any other criminal activities and in case of his involvement in any other subsequent criminal case that will be a ground to cancel the bail.

7. In the absence of any such conditions imposed by this Court, the impugned order cancelling the bail cannot legally be sustained. Hence, this Court has no hesitation to hold that the impugned order is liable to be set aside and is set aside accordingly.



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8. In the result, the Criminal Revision Petition is allowed and the impugned order in Cr.M.P(MD)No.1160 of 2024, dated 19.08.2024, cancelling the bail granted to the petitioner is set aside. Consequently, connected Miscellaneous Petition is closed.

19.10.2024

NCC : Yes /No

Index : Yes/No

Internet : Yes/No

das

To

1.The District Munsif cum Judicial Magistrate,
Sengottai.

2.The The Inspector of Police,
Sengottai Police Station, Tenkasi District.

3.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J.

das

Pre-delivery order made in
CRL.R.C.(MD).No.944 of 2024
and
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19.10.2024