



Crl.O.P.(MD) No.16605 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD) No.16605 of 2024

Murugesan

... Petitioner/Intervener/
Defacto Complainant

Vs.

1.Sugapriya

...Respondent-1/ Accused -1

2.Manobalan

...Respondent-1/ Accused -2

3.The State represented by
the Inspector of Police,
Chinnamannur Police Station,
Theni District.
Crime No.334 of 2024

...Respondent No.3/Complainant

PRAYER: Criminal Original Petition is filed under Section 439 (2) of cr.p.c. to cancel the anticipatory bail granted to the accused / respondent Nos.1 and 2 by the learned Principal Sessions Judge, Theni in Crl.M.P.No.2280 of 2024, dated 21.09.2024.

For Petitioner : Mr.C.Iyyappa Raj, Advocate

For R-1 & R-2 : Mr.J.Senthil Kumariah, Advocate

For R-3 : B.Thanga Aravindh,
Government Advocate (Criminal Side)

ORDER

This petition has been filed to cancel the anticipatory bail granted to the petitioner by the Court below in Crl.M.P.No.2280 of 2024 by an order dated



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2. Heard the learned counsel on either side.

3. The case of the prosecution is that the defacto complainant is a neighbour of the accused and the allegation is that they have stolen jewellery worth about Rs.4,25,500/- (Rupees Four Lakhs Twenty Five Thousand and Five Hundred only) from the defacto complainant's house.

4. The accused persons initially filed an anticipatory bail petition in Crl.M.P.No.2102 of 2024 before the learned Principal Sessions Judge, Theni. While dealing with this petition, the learned Principal Sessions Judge found that the investigation is in a premature stage and considering the allegations made, the anticipatory bail petition was dismissed by an order dated 02.09.2024. Thereafter, another anticipatory bail petition was filed and the learned Principal Sessions Judge, Theni, by an order dated 21.09.2024 granted anticipatory bail to the accused persons by stating that the Court had considered the nature of offence and the facts and circumstances of the case. This anticipatory bail petition was entertained within a period of 19 days from the dismissal of the earlier anticipatory bail petition.



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5. The learned counsel appearing for the first and second respondents, who are arrayed as Accused Nos.1 and 2 submitted that they have been implicated as an accused merely on suspicion and the same was considered by the Court below while granting anticipatory bail to them.

6. This Court has carefully considered the submissions made on either side and the materials available on record.

7. The learned Principal Sessions Judge, Theni, dealt with the anticipatory bail filed in Crl.M.P.No.2102 of 2024 on merits and also found that the investigation is in the nascent stage. Accordingly, the petition was dismissed. Within 19 days, the second anticipatory bail petition filed in Crl.M.P.No.2280 of 2024 was allowed by an order dated 21.09.2024. While being so, there is absolutely no discussion in the order and the Court below has not even taken into consideration the reasons that were assigned in the earlier order that was passed in Crl.M.P.No.2102 of 2024.

8. There is no bar in filing repeated bail petitions. However, when the earlier bail petition is dismissed on merits, the subsequent bail petition can be considered only if there are change in circumstances. The law on this issue is now too well settled. There is absolutely no change in circumstances in this case within a span of nineteen days. Therefore, the order passed by the Court below in Crl.M.P.No.2280 of 2024, dated 21.09.2024 suffers from illegality.



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9. This Court can cancel the bail either on the ground of non compliance of the conditions or by taking into account supervening circumstances. The supervening circumstance in the present case is the fact that the Court below without any change in circumstances granted anticipatory bail to the petitioner within 19 days after the earlier anticipatory bail was dismissed in Crl.M.P.No.2102 of 2024. In view of the same, this Court has to necessarily interfere with the order passed by the Court below and cancel the anticipatory bail granted in favour of Accused Nos.1 and 2.

10. In the result, the order passed in Crl.M.P.No.2280 of 2024 dated 21.09.2024 is hereby set aside and the anticipatory bail granted in favour of the petitioner is cancelled.

11. This Criminal Original Petition is allowed accordingly.

sd/-
14/11/2024

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/11/2024

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

TSG



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To

1.The Principal Sessions Judge, Theni

2.The Inspector of Police,
Chinnamannur Police Station, Theni District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.C.IYYAPPARAJ, Advocate (SR-14137[I] dated 18/11/2024)

ORDER

IN

CRL OP(MD) No.16605 of 2024

Date :14/11/2024

RK/ (25/11/2024) 5P / 5C

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