



CRL MP(MD) No.11490 of 2024

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

Wednesday, the Thirtieth day of October Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice D.BHARATHA CHAKRAVARTHY

CRL MP(MD) No.11490 of 2024

IN

CRL OP(MD) No.13007 of 2024

R.JAYANT RHANIUS ... PETITIONER/DEFACTO COMPLAINANT

Vs

1 THE INSPECTOR OF POLICE,
CITY CRIME BRANCH POLICE STATION,
TIRUNELVELI DISTRICT.
(CRIME NO. 12 OF 2024)

... 1st RESPONDENT/COMPLAINANT

2 DHANASINGH

... 1st ACCUSED/ACCUSED No.1

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 granted to the Respondent No.2 in CrI.OP(MD) No.13007/2024 dt. 13.08.2024 by this Hon'ble Court in Crime No. 12/2024 on the file of the 1st respondent police.

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 Mr.K.SUYAMBULINGA BHARATHI, Advocate for Mr.S.VISHNUVARDHAN, Advocate for the petitioner and of Mr.R.M.ANBUNITHI, Additional Public Prosecutor on behalf of the 1st Respondent and Mr.R.ANAND, Advocate for the 2nd Respondent and Mr.AAYIRAM K.SELVAKUMAR, Advocate for the Additional

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



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Intervenor, the court made the following order:-

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The petition is filed for cancellation of anticipatory bail granted to the 2nd respondent in CrI.OP(MD). No. 13007 of 2024 dated 13.08.2024.

2. The premises on which the cancellation of anticipatory bail petition filed is that while granting anticipatory bail, this Court had recorded the unequivocal contention on behalf of the 2nd respondent that the signature of Mr.R.Jayant Rhanius is not forged and he only has signed the life certificate and in the subsequent paragraph, this Court has directed all the parties to give their specimen signature and in the event, if the signature of the said person is found to be forged by the 2nd respondent, the anticipatory bail shall be liable to be cancelled. Therefore, in view thereof, subsequently parties have given the sample signature. It has now been found that Mr. R. Jayant Rhanius' signature was indeed forged. It is further found that one Shahul Hameed has only written the addresses contained in the impugned life certificate. Therefore, the learned counsel for the petitioner would submit that since the averment based on which anticipatory bail granted turned out to be false, the anticipatory bail should be cancelled.

3. The learned Additional Public Prosecutor (Criminal Side) would place the expert report. It can be seen from the expert report that both the life certificate have been sent for forensic examination. The signature of Jayant Rhanius is marked as

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



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Ex.Q1 and the address is marked as Ex.Q2 and again in the second document it is marked as Exs.Q3 and Q4. After examination, it is found that the sample of Jayant Rhanius does not match with the signatures contained in the impugned document, as such, it is concluded that his signatures have been forged. As far as the address is concerned, it is found that it was written only by the other accused Shahul Hameed.

4. The learned counsel appearing on behalf of the 2nd respondent would submit that firstly, it can be seen that the 2nd respondent has not forged the signature of Jayant Rhanius. This Court had clearly stated in the anticipatory bail order that if it is established that the 2nd respondent forged the signature of Jayant Rhanius, the anticipatory bail would be subject to cancellation. Therefore, when the report has categorically come that it is not the 2nd respondent who has forged the signature of Jayant Rhanius, there is no question of cancellation of anticipatory bail. Further, he would submit that every fact finding which is made at the time of granting of anticipatory bail, if it turns out to be incorrect, cannot be a ground for cancellation of anticipatory bail. The grounds for grant or rejection of anticipatory bail and the cancellation of anticipatory bail are very different. The anticipatory bail once granted can be cancelled only on limited grounds. There must be an evasion or interference with the due course of justice or there must be a possibility to abscond which should justify the cancellation of anticipatory bail. The learned counsel would rely upon the



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judgment of the Hon'ble Supreme Court of India in Dolat Ram and Others -vs- State of Haryana reported in (1995) 1 SCC 349.

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5. The learned counsel would also rely upon the judgment of the Hon'ble Supreme Court of India in Sheila Sebastian -vs- R.Jawaharaj and Another reported in (2018) 7 SCC 581 to contend that it is not enough for the prosecution to find that the signature doesn't belong to the particular individual, but they should also find out who is the maker of the document and who had actually forged the document. The learned counsel would specifically rely on paragraph no.25 of the said judgment, which reads thus:-

“25.Keeping in view the strict interpretation of penal statute i.e. referring to rule of interpretation wherein natural inferences are preferred, we observe that a charge of forgery cannot be imposed on a person who is not the maker of the same. As held in plethora of cases, making of a document is different than causing it to be made. As Explanation 2 to Section 464 further clarifies that, for constituting an offence under Section 464 it is imperative that a false document is made and the accused person is the maker of the same, otherwise the accused person is not liable for the offence of forgery.”

6. The learned counsel for the 2nd respondent would also rely upon the



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judgment of the Hon'ble Supreme Court of India in Yogarani -vs- State by the
Inspector of Police reported in 2024 SCC OnLine SC 2609, more specifically, relying
upon paragraph no.13 to contend that the expert opinion itself is not a conclusive
proof as it can be prone to error, and only at the time of trial, the truth or otherwise
can be finally arrived at by taking into account the other substantive evidence on
record.

7. It is now stated that after the grant of anticipatory bail, the 2nd respondent has
also surrendered before the learned Judicial Magistrate and executed the sureties and
also appeared before the respondent and complied with the conditions.

8. The learned counsel for the petitioner would rely upon the judgment of the
Hon'ble Supreme Court of India in Deepak Yadav -vs- State of U.P. And Another
reported in 2022 LiveLaw (SC) 562, specifically, relying on paragraph 34 and it is
contended that the Court must consider the overall gravity and the prima facie case
and should not base its decision only on supervening circumstances.

9. I have considered the submissions made on either side and perused the
material records of the case.

10. Since the prayer for cancellation of anticipatory bail is made only on the
premises of earlier order passed by this Court. It is essential to extract the paragraph
nos.5,6 and 7 of the earlier order dated 13.08.2024 passed by this Court:-



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“5.It is asserted by the learned counsel for the petitioner that the signature is not forged and the original principal only has signed the life certificate.

6.In view thereof, since an assertion is made that the certificate belongs to that of the Jeyanth Rhenuius only, at this stage, since the other allegations would only part on civil dispute, this Court is inclined to enlarge the petitioner on anticipatory bail.

7.However, the Investigating Officer shall take the specimen signature of the petitioner, the said Dhanapal, de facto complainant and the said Jeyanth Rhenuius and also send the impugned life certificate to the Forensic Lab Department, to firstly find out whether the certificate is forged or not and secondly who forged the signature. If it is found that the signature is forged by the petitioner herein, the anticipatory bail will be cancelled and the petitioner will be taken into custody.”

11. A reading of the above it would be clear that there has been a categorical assertion on the part of the petitioner herein that the life certificate is signed only by the original principal and that the said fact is recorded in paragraph no.6. In paragraph no.6, this Court has clearly made the reasoning for grant of anticipatory



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bail that only on the said assertion, anticipatory bail is being granted and in paragraph no.7, it is made clear that after the verification of the signature, if it is found that the life certificate is forged, the anticipatory bail will be cancelled and the 2nd respondent will be taken into custody.

12. The argument of the learned counsel for the 2nd respondent is that while the expert's report demonstrates that the certificate is forged, it does not further prove that the 2nd respondent is the one who forged the signature. As a matter of fact, this Court also recorded the statement made by the 2nd respondent that the certificate is handed over to him only by one Dhanabal in para 4. I have given anxious consideration to the said submissions made. The order of this court has to be read in toto and it has to be construed. The premise on which the anticipatory bail is granted is the assertion of the petitioner herein that the life certificate is not forged. Now it turns out that the life certificate is forged. So far, the prosecution has materials to allege that Shahul Hameed, a broker, was employed by the 2nd respondent to write the addresses, which he is said to have done. Therefore, it is done only on behalf of the 2nd respondent. Though the report has not come that the 2nd respondent has not personally forged the signature, now it is even more relevant as held by the Hon'ble Supreme Court of India in Sheila Sebastian -vs- R.Jawaharaj and Another reported in (2018) 7 SCC 581 that the maker of the document has to be identified by the



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prosecution. Now, so far the investigation reveals that Jayant Rhanius has not signed the life certificate. Shahul Hameed wrote the address, and Jayant Rhanius did not approach the doctor to obtain the certificate. The prosecution must now further investigate to identify who completed the rest of the document, including forging the signature. Therefore, when the case is of a rank forgery and all these parties are said to have entered into a conspiracy and created the document and further sold the property, this is a fit case to be investigated thoroughly and it needs custodial interrogation. Only on the assertion of the 2nd respondent that the signature was not forged, the anticipatory bail was granted.

13. Even though I agree with the proposition argued by the learned counsel for the 2nd respondent that the exercise of power of cancellation of anticipatory bail lies in a very narrow campus, it can be seen in this case that the aggrieved person is entitled to justice. The course of justice and the investigation cannot be denied in relation to the said complaint merely by making an assertion. Therefore, especially in a case of this nature, where the document is forged and the investigating officer needs to determine who forged it, custodial interrogation of the concerned accused is necessary. Hence, I hold that this is a fit case for cancelling the anticipatory bail. Apprehensions were expressed by the prosecution as well as the intervenor at the time of moving the bail application itself and only considering the overall facts and



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circumstances of the case, this court had recorded in paragraph nos. 5, 6 and 7 as quoted above. Therefore, since the petitioner has been granted anticipatory bail by the said order, they would also be bound by the observations made in that order. In view thereof, this Criminal Original Petition stands allowed and the anticipatory bail granted to the 2nd respondent in CrI.O.P.(MD). No. 13007 of 2024 shall stand cancelled.

14. Accordingly, this petition stands allowed.

sd/-
30/10/2024

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/11/2024
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PAL
TO
1 THE JUDICIAL MAGISTRATE NO.I,
TIRUNELVELI.

2 DO THROUGH THE CHIEF JUDICIAL
MAGISTRATE, TIRUNELVELI DISTRICT.

3 THE INSPECTOR OF POLICE,
CITY CRIME BRANCH POLICE STATION,
TIRUNELVELI DISTRICT.

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



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+1 CC to M/s.S.VISHNUVARDHAN, Advocate (SR-13581[I] dated 05/11/2024)

ORDER
IN
CRL MP(MD) No.11490 of 2024
IN
CRL OP(MD) No.13007 of 2024
Date :30/10/2024

SA/SKN/SAR. /15.11.2024/10P/6C

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