



Crl.O.P.(MD) No.23486 of 2023

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

DATED: 09.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI,J

Crl.O.P.(MD) No.23486 of 2023

M.Archana Shree

...Petitioner / 3rd Party /
Defacto Complainant

vs.

1.The State rep. By its
Sub Inspector of Police,
Vadasery Police Station
Kanyakumari District.
(Crime No.122 of 2023)

... 1st Respondent / Respondent /
Complainant

2.Sivakumar

... 2nd Respondent / Petitioner /
Accused No.1

PRAYER: Criminal Original Petition is filed to cancel the anticipatory bail granted in Crl.M.P.No.5749 of 2023 dated 18.10.2023 by the Principal Sessions Court, Kanyakumari at Nagercoil.

For Petitioner : Mr.A.Balakrishnan

For Respondents : Mr.S.S.Madhavan for R1
Government Advocate (Crl.Side) for R1



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ORDER

This Petition has been filed to cancel the anticipatory bail granted to the respondent/accused vide order dated 18.10.2023 in Crl.M.P.(MD) No.5749 of 2023 on the file of the Principal Sessions Court, Kanyakumari.

2. The case of the prosecution is that for the purpose of getting treatment to A2, A1 collected a sum of Rs.8,00,000/- and 53 sovereigns of gold. However, he has neither returned the money nor the gold jewels and hence, the complaint.

3. The learned counsel for the petitioner would submit that for the treatment to the wife of the respondent/accused, he received a sum of Rs.8 lakhs and 53 sovereigns of gold. However, returned only Rs.3 lakhs and not returned the remaining amount and hence, prays for cancellation of anticipatory bail.

4. The learned counsel for the respondents would submit that if at all the bail has to be cancelled, there must be superevening circumstances and in the present case, no superevening circumstances were raised by the petitioner and hence, prays for dismissal of this petition. He would further submit that now the respondent/accused is ready to deposit a sum of Rs.1,50,000/- before the trial Court and the same may be disbursed to the petitioner and if the respondent/accused succeeds before the criminal Court, liberty may be granted for refund of the said



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amount.

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5. Heard the Learned Government Advocate (Crl.Side) on the above submissions, who would submit that due to money dispute, a case came to be registered.

6. Section 439 (2) of Cr.P.C. clothes the Court with the power to deal with issue relating to cancellation of bail. The Courts should be more rigid in its examination of violation and proof of violation in matters relating to cancellation of bail.

7. Admittedly, the respondent/accused was released on anticipatory bail by the trial Court on 18.10.2023. However, no supervening circumstances were brought before this court to cancel the anticipatory bail granted by the trial court. As observed by the trial court, it is a money dispute and the remedy open to the petitioner is not by way of filing criminal complaint, but it is before the appropriate forum. In view of the submission now made before this Court that the respondent/accused is ready to make payment of a sum of Rs.1,50,000/- to the petitioner before the trial court, the petition for cancellation of bail is dismissed. However, the respondent/accused shall make payment of Rs.1,50,000/- (Rupees one lakh fifty thousand only) before the trial Court and on such payment being made, the trial court shall disburse the said amount to the petitioner on filing appropriate affidavit and proof and if the respondent/accused succeeds in the



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criminal case, he is entitled for the refund of the said amount. As far as the remaining amount is concerned, liberty is granted to the petitioner to work out his remedy in the manner known to law.

sd/-
09/01/2024

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/01/2024
Sub-Assistant Registrar
(C.S. I / II / III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

RR

To

1.The Principal Sessions Judge,
Kanyakumari District at Nagercoil.

2.The Sub Inspector of Police,
Vadasery Police Station,
Kanyakumari District.

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

+1 CC to M/s.K.P.NARAYANA KUMAR, Advocate (SR-505[I] dated 10/01/2024)



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ORDER

IN

CRL OP(MD) No.23486 of 2023

Date :09/01/2024

ED/ DD /SAR- (19/01/2024) 5P / 5C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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