



Crl.O.P.No.4212 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 14.03.2025

CORAM

THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

Criminal Original Petition No. 4212 of 2024

N.Naveen Balaji

... Petitioner

versus

1.The State Rep. by Station House Officer,
B-2, Kalapet Police Station, Puducherry.

2. D.Ramraj

3.C.K.S.Karthikeyan

4.R.Vignesh

5.E.Velu

6.Pon.Raja

... Respondents

Criminal Original Petition filed under Section 439(1)(b) of Cr.P.C.,
praying to cancel the anticipatory bail granted to the respondents 2 to 6 in
Crl.M.P.No.366 of 2024, by the order of the learned Principal Sessions Judge,
Puducherry by order dated 06.02.2024.

For Petitioner	:	Mr. R.Srinivas, Senior counsel for M/s.S.Ilamuhil
For R1	:	Mr. M.V.Ramachandramurthy Additional Public Prosecutor (Puducherry)
For R2, R3 & R4	:	Mr. C. Mohan for M/s. Virukshan Legal
For R5	:	Mr.V.Ramesh for Mr.R.Ashwanth
For R6	:	Mr.K.V.Babu



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ORDER

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The petitioner has filed this petition to cancel the anticipatory bail granted to respondents 2 to 6 in Crl.M.P.No.366/2024, passed by the learned Principal Sessions Judge, Puducherry, dated 06.02.2024.

2. The learned counsel for the petitioner raised arguments to cancel the anticipatory bail on the following grounds:

i) The order of Anticipatory Bail dated 06.02.2024 granted by the Learned Hon'ble Principal Sessions Judge, Puducherry in the Crl.M.P No.366/2024 is perverse, arbitrary and vitiated by non application of mind and non consideration of material facts and circumstances of the case. The said order is contrary to facts and law and cannot be countenanced.

ii) The court below failed to see that anticipatory bail should not be granted economic offences and white collar offences.

iii) The Learned Principal Sessions Judge, Puducherry failed to consider that the stolen documents are not recovered by the respondent police and once the anticipatory bail is granted it is difficult for the policeto recover it from the accused persons and conduct an effective investigation.



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iv) The Learned Principal Sessions Judge, Puducherry failed to see that the offences under section 467 of I.P.C is punishable upto ten years and the offences committed by the 2nd to 6th respondents requires custodial interrogation which has been thwarted by the impugned order.

v) The Learned Principal Sessions Judge, Puducherry failed to see that one after another the Accuseds No.2 to 6 are claiming to be in possession of the stolen documents but no one has produced the same in any proceeding and that there is a danger of the same being destroyed or tampered by them at any point of time.

vi) The Learned Principal Sessions Judge, Puducherry failed to see that the Accused persons are claiming to have paid a sum of Rs.13,99,00,000, Rs.15,00,00,000/- and Rs.24,00,00,000/-without any legal basis or proof and are attempting to defraud the Government and cheat the Court with an intention of getting wrongful gain.

vii) The Learned Principal Sessions Judge, Puducherry passed the order dated 06.02.2024 without proper understanding of the actual facts of the case and failed to consider and deal with the objection to the grant of anticipatory bail lawfully and in the proper perspective.

viii) The Learned Principal Sessions Judge, Puducherry failed to see that the anticipatory bail application filed by the 6th accused in Cr.No.112/2023



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namely Sekar were dismissed twice considering the seriousness of the offences committed by the accused persons by order in CrI.M.P. No.4694/2023 dt.04.12.2023 and CrI.M.P. No.4927/2023 dt.14.12.2023 and erred in granting anticipatory bail to the respondents 2 to 6 herein without considering the reasons and grounds for rejection of the same relief to the 6th accused and without appreciating that there was no change of circumstances or fresh grounds in the instant petition filed by the respondents 2 to 6.

ix) The Learned Principal Judge failed to consider the fact that there was a strong prima facie case against the accused and all of them were connected to political parties and they had the potential power and propensity to tamper witnesses and hamper the prosecution.

x) The Lower Court acted without application of mind in granting anticipatory bail while also recording that the truth will surface only after thorough investigation by the respondent police etc without an understanding that grant of such relief will impede effective investigation in the facts and circumstances of this case.

xi) The Sessions Court committed a blunder in concluding that the petitioner/defacto complainant availed loan from Karur Vysya Bank without depositing the original title deeds without understanding that the original title deeds concerned were deposited with Karur Vysya Bank on 15.03.2017 and



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they were released after discharge of the mortgage loan by the petitioner only

WEB COPY on 15.11.2019.

xii) The Learned Principles Sessions Judge has granted anticipatory to the Accused/respondents 2 to 6 mechanically and without application of mind stultifying, the investigation and causing grave injustice and miscarriage of justice.

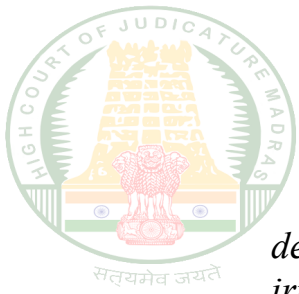
3. To support his arguments the petitioner relied on the following ratio ratio laid down by *the Hon'ble Supreme Court of India, reported in (i) 2012 SCC Online SC 966 Padmakar Tukaram Bhavnagare & Anr :-Versus:- State of Maharashtra & Another*, in which reads as follows:

"B. Criminal Procedure Code, 1973 Ss. 438 and 439 Cancellation of bail Grounds for -Held, generally speaking, grounds for cancellation of bail are interference or attempt to interfere with due course of justice or abuse of concession of bail - Furthermore, bail can also be cancelled when order of bail is perverse - Criminal Trial - Bail."

ii. *(2021) 15 SCC 518, Vipin Kumar Dhir :-Versus:- State of Punjab and another*, in which reads as follows:

"10. These principles have been reiterated time and again, more recently by a three-Judge Bench of this Court in X v. State of Telangana.

11. In addition to the caveat illustrated in the cited



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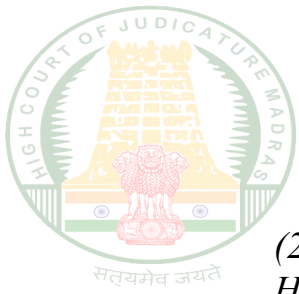
decision(s), bail can also be revoked where the court has considered irrelevant factors or has ignored relevant material available on record which renders the order granting bail legally untenable. The gravity of the offence, conduct of the accused and societal impact of an undue indulgence by Court when the investigation is at the threshold, are also amongst a few situations, where a Superior Court can interfere in an order of bail to prevent the miscarriage of justice and to bolster the administration of criminal justice system. This Court has repeatedly viewed that while granting bail, especially anticipatory bail which is per se extraordinary in nature, the possibility of the accused to influence prosecution witnesses, threatening the family members of the deceased, fleeing from justice or creating other impediments in the fair investigation, ought not to be overlooked."

iii. 2022 SCC ONLINE SC 1903, Vivekananda Mishra -: Versus:-

State of UP and another, in which reads as follows:

21. In this Appeal the correctness of the impugned order of the High Court, in granting bail to the Respondent Accused is in question. The exercise of appellate jurisdiction to adjudge correctness of a bail order is not restricted by the principles for cancellation of bail. As held by this Court, speaking through Dr. D.Y. Chandrachud J. in Mahipal v. Rajesh Kumar (supra):-

"16. The considerations that guide the power of an appellate court in assessing the correctness of an order granting bail stand on a different footing from an assessment of an application for the cancellation of bail. The correctness of an order granting bail is tested on the anvil of whether there was an improper or arbitrary exercise of the discretion in the grant of bail. The test is whether the order granting bail is perverse, illegal or unjustified. On the other hand, an application for cancellation of bail is generally examined on the anvil of the existence of supervening circumstances or violations of the conditions of bail by a person to whom bail has been granted. In Neeru Yadav v. State of U.P. [Neeru Yadav v. State of U.P., (2014) 16 SCC 508:



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(2015) 3 SCC (Cri) 527], the accused was granted bail by the High Court [Mitthan Yadav v. State of U.P., 2014 SCC OnLine All 16031]. In an appeal against the order [Mitthan Yadav v. State of U.P., 2014 SCC OnLine All 16031] of the High Court, a two-Judge Bench of this Court surveyed the precedent on the principles that guide the grant of bail. Dipak Misra, J. (as the learned Chief Justice then was) held: (Neeru Yadav case [Neeru Yadav v. State of U.P., (2014) 16 SCC 508: (2015) 3 SCC (Cri) 527], SCC p. 513, para 12)

"12. It is well settled in law that cancellation of bail after it is granted because the accused has misconducted himself or of some supervening circumstances warranting such cancellation have occurred is in a different compartment altogether than an order granting bail which is unjustified, illegal and perverse. If in a case, the relevant factors which should have been taken into consideration while dealing with the application for bail have not been taken note of, or bail is founded on irrelevant considerations, indisputably the superior court can set aside the order of such a grant of bail. Such a case belongs to a different category and is in a separate realm. While dealing with a case of second nature, the Court does not dwell upon the violation of conditions by the accused or the supervening circumstances that have happened subsequently. It, on the contrary, delves into the justifiability and the soundness of the order passed by the Court."

17. Where a court considering an application for bail fails to consider relevant factors, an appellate court may justifiably set aside the order granting bail. An appellate court is thus required to consider whether the order granting bail suffers from a non-application of mind or is not borne out from a prima facie view of the evidence on record. It is thus necessary for this Court to assess whether, on the basis of the evidentiary record, there existed a prima facie or reasonable ground to believe that the accused had committed the crime, also taking into account the seriousness of the crime and the severity of the punishment."



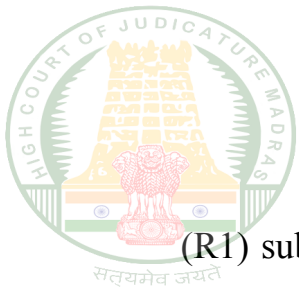
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iv. (2013) 16 SCC 190 **Gulabrao Baburao Deokar :-Versus:- State of Maharashtra and Others**, in which reads as follows:

"A.Criminal Procedure Code, 1973- Ss. 439(2), 439(1) and 482 - Cancellation of bail - grounds - Illegal or perverse order granting bail - power of High Court to set aside such perverse order and cancel bail

C.Criminal Procedure Code, 1973 - Ss.439(1) and 439(2) - Order granting bail - validity - Appellant charged for serious economic offences / corruption punishable with imprisonment for life - Application for bail of appellant made on very day of his arrest and allowed by sessions judge on the same day - Mandatory requirement of serving notice of bail application on Public Prosecutor under proviso to S.439(1), not complied with by Sessions Judge -various factors pointed out by prosecution like conduct of appellant after registration of crime, his criminal antecedents with proof, fact of rejection of bail applications of other three main accused and wrongful loss of about Rs.169 crores to Municipal Corporation, not considered by Sessions Judge - Held, order granting bail by Sessions Judge considered by Sessions Judge - Held, order granting bail by Sessions Judge was perverse - Material on record indicated that attempts have been made by appellant to pressurise witnesses and even the IO - Hence, High Court rightly cancelled bail of appellant - Penal Code, 1860 -Ss. 120 B, 406, 409, 411, 420, 465, 466, 468,471 and 109 r/w S.34 - Prevention of corruption Act, 1988, S.13(2) r/w Ss.13(1)(c) and 13(1)(d)."

4. By way of reply, the learned counsel for the first respondent police



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(R1) submitted a counter-objection stating that the petitioner and one Selvam, who was authorized by Mr. Manikavel, lodged a complaint before them stating that nearly 25 documents were missing. Among these, 13 original documents belonged to Naveen Balaji (petitioner) and 11 original documents belonged to Manikavel. Upon verification and exhaustive enquiry, the Station House Officer (SHO) recorded the missing status of the above documents in the General Diary, Vol. No.22, Page No.13, Sl. No.37.

5. Pursuant to this, the SHO issued a Non-Traceable Certificate on 20.06.2023, listing the details of the missing documents and stating that necessary action would be taken to trace them. On 25.06.2023, the petitioner lodged another complaint, alleging that his missing documents had been stolen and misappropriated by Ramraj, C.K.S. Karthikeyan, and Velu, and requested necessary action against them. Upon receiving this complaint, the police called the accused persons for enquiry, but they did not appear.

6. Subsequently, on 28.06.2023, the Sub-Registrar, Vanur, sent a letter seeking a Non-Traceable Certificate regarding the pending documents No. P.22/2023, P.23/2023, and P.25/2023, which were said to have been executed by the petitioner and Manikavel. Again, the police summoned Ramraj and



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others for enquiry, but they failed to appear or produce the original documents allegedly in their possession. Instead, they were represented by their advocates, who provided reasons for their non-appearance. However, they failed to produce any documents. The petitioner alone attended the enquiry, and on 17.07.2023, the police issued a Non-Traceable Certificate to the Sub-Registrar.

7. On 09.09.2023, the petitioner lodged another complaint against the accused persons, alleging that they had stolen his original documents and fabricated records. In a prior Writ Petition (W.P.No.26333 of 2023) filed by R6, the court directed the police to file a status report regarding the missing records. Accordingly, the police issued summons to the accused, but all of them except Naveen Balaji failed to appear and did not cooperate with the enquiry. A status report was then submitted, following which the writ petition was closed, directing the parties to seek appropriate remedies. In another Writ Petition (W.P.No.25723 of 2023) on 26.09.2023, the court directed the police to register an FIR. Accordingly, FIR No.112 of 2023 was lodged against the accused under Sections 120B, 379, 384, 411, 467, 468, 420, 506(i), and 34 of IPC. The accused persons absconded but later obtained anticipatory bail from the subordinate court. Despite objections, they have not cooperated with the



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investigation. Though they appear before the police to comply with the conditions imposed by the learned Principal Sessions Judge, they have not produced the original documents.

8. Furthermore, it was submitted that four individuals Ramraj, C.K.S. Karthikeyan, Velu, and Pon.Raja claim to possess the original missing documents but have not produced them before the police for verification. They are allegedly withholding these documents with the ill intention of extorting a huge sum from the complainant, making custodial interrogation necessary. Therefore, the petitioner prays for the cancellation of anticipatory bail.

9. The learned counsel for respondents 2, 3, and 4 filed separate counter-objections, stating that the second respondent was engaged in a real estate business and was a close relative of one Sambath, who held a prominent political position in Cuddalore. Sambath introduced C.K.S. Karthikeyan (R3) and informed him that the petitioner, Naveen Balaji, and Manikavel, who owned adjacent lands, were planning to sell their properties for valid consideration. Following Sambath's instructions, R3 met the petitioner, inspected the documents, and visited the land. Acting on his advice, Sambath



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decided to purchase the land for developing residential apartment complexes and even invited the sellers to be partners in the project. After negotiations, they paid the sale consideration to the petitioner, Naveen Balaji, and Manikavel in Andhra Pradesh and received the original land documents. An unregistered sale deed was executed on 27.12.2022.

10. However, when the respondents demanded the execution of the sale deed, the petitioner evaded them. Meanwhile, the second respondent, C.K.S. Karthikeyan, took a loan from Velu and Pon.Raja of Ponneri and paid an advance to the petitioner. In return, the petitioner handed over his documents as collateral security. Meanwhile, Sambath directly contacted the landowners (the petitioner and Manikavel) and offered them a higher price, ignoring the respondents from the contract. To avoid honoring the agreement, Sambath, along with the petitioner and Manikavel, filed a complaint before Kalapet Police Station, alleging that the original documents were lost and seeking the issuance of a Non-Traceable Certificate.

11. Additionally, they attempted to register the sale deed for the land. In response, on 24.06.2023, the second respondent and C.K.S. Karthikeyan submitted a protest petition before the Sub-Registrar, which led to the pending registration of the documents.



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WEB COPY 12. Challenging this, the purchaser, Ilangovan, filed a Writ Petition (WP No. 25723 of 2023), which is pending before this Court. Pursuant to the direction of this Court, a criminal case was filed on 09.09.2023. Apprehending arrest, the accused applied for anticipatory bail. Subsequently, they cooperated with the investigation and provided their explanation, which was accepted by the Station House Officer (SHO) of Kalapet.

13. However, on 04.04.2024, the Inspector of Mudhaliarpeta issued a notice demanding the original documents. As the accused did not have the original documents, they informed the authorities in writing. Despite this, the Investigation Officer issued summons, and on 10.05.2024, the accused appeared and submitted a written statement. Thus, they have been cooperating with the investigation, and the claim that they are not cooperating is false.

14. Furthermore, respondents 5 & 6 filed a petition to cancel the non-traceable certificate issued by the Kalapet Police Station. They asserted their right to deal with the property under the agreement of sale with the defacto complainant, which is a civil in nature. They expressed their intent to file a suit for specific performance or a refund of the advance amount. However, they

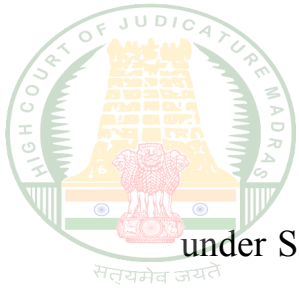


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alleged that the petitioner, being supported by highly influential political figures, has filed this application with a malafide intention to harass them by seeking bail cancellation. They argued that the reasons assigned by the petitioner do not constitute valid grounds for bail cancellation. They also reaffirmed their willingness to cooperate with the investigation as required by the first respondent police. They further contended that the political figures involved in the case have not been properly investigated by the first respondent police and, therefore, prayed for the dismissal of the petition as devoid of merit.

15. The fifth respondent (R5) submitted his objection, stating that after being granted anticipatory bail on 06.02.2024, he complied with the conditions and appeared before the first respondent police on 10.05.2024 and 12.06.2024. His statements were recorded by the police, thereby proving his cooperation with the investigation. He asserted that the allegations made by the petitioner are false and requested the dismissal of the petition for lack of merit.

16. Considering both sides' submissions, in Crime No. 112 of 2023, based on the complaint filed by the petitioner, Naveen Balaji, the first respondent police registered an FIR against respondents 2 to 6 (accused 1 to 5)



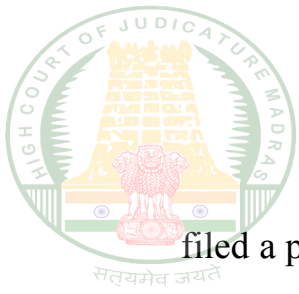
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under Sections 120B, 379, 384, 411, 467, 468, 420, 506(i), and 34 of the IPC.

Respondents 2 to 6 (A1 to A5) filed Crl MP No. 366 of 2024 before the learned Principal Sessions Judge, Puducherry, seeking anticipatory bail, which was granted with certain conditions. The petitioner has now filed this application to cancel the bail, arguing that the order was passed without considering the gravity of the offence and without due application of judicial mind. He prays for the order to be set aside based on the aforementioned grounds.

17. As per the FIR allegations, the petitioner and his friend, Manikavel, lost the original title deeds of their property in Puducherry on 13.06.2023. Later, they discovered that their documents had been stolen by R2 to R4, who had been assisting them in selling their lands. Immediately after the theft, the petitioner and his friend issued a public notice and lodged a complaint regarding the missing records. On 24.06.2023, the fourth and fifth respondents issued a publication stating that the second and third respondents had deposited the petitioner's title deeds as mortgage security.

18. The original owner (petitioner) attempted to sell the property without acknowledging the mortgage. Consequently, on 24.06.2023, R2/A1



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filed a protest petition before the Registrar, Vanur, where the petitioner and his friend attempted to register the sale deed to a third party. As per the protest by R2, there was already a sale agreement between the petitioner and R2 dated 27.12.2022, wherein a sale consideration of Rs.13 crores was allegedly paid in cash to the petitioner. However, without considering the terms of the sale agreement, the petitioner obtained a non-traceable certificate based on false claims and again attempted to sell the property to third parties.

19. Meanwhile, based on the petitioner's complaint dated 25.06.2023, the present FIR was lodged. Additionally, on 25.06.2023, the fifth respondent (A4) issued a notice stating that the petitioner, Naveen Balaji, had approached him in 2018 for financial assistance to run his resort. He had availed a loan of Rs.1 crore on various dates through cheques, agreeing to repay the amount with interest. However, as the petitioner failed to pay the interest regularly, he was asked to provide a guarantee deposit of his title deeds. Consequently, the original documents were handed over as security for the loan borrowed by CKS Karthikeyan and Ramraj.

20. Further, he submits that after securing a non-traceable certificate from the police, the respondents fraudulently admitted to defraud his



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subexisting mortgage. He reserves his right regarding the said mortgage. A notice was issued to C.K.S. Karthikeyan, Ramraj, Inspector of Police, and the Sub-Registrar on 23-06-2023. Thereafter, on 25-06-2023, the petitioner lodged a complaint alleging that the documents were stolen with the intention of illegally acquiring his properties against respondents 2 to 5.

21. At the time of the argument, the learned counsel for the respondents pointed out that another notice dated 27-06-2023 was issued by petitioner, wherein he has stated that he had borrowed a loan of nearly Rs.1 crore for business purposes in February 2018, and claimed that the entire loan amount had been settled, but at the time of securing the loan, the title deeds were handed over as security. After repaying the loan in full, the petitioner, Naveen Balaji, requested the return of the original documents. However, they were not returned, and due to the COVID-19 pandemic, he was unable to collect them. In the same notice, he further stated that respondents 2, to 4, in collusion with real estate brokers, seem to have taken the original title deeds to fabricate records.

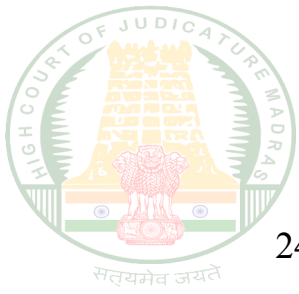
22. By issuing such a notice, the petitioner admits that he borrowed a



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loan from R5. However, this fact was not disclosed in the FIR. A perusal of the FIR shows that the borrowing of the said loan by the de facto complainant from R5 was not properly stated. The exchange of notices between the defacto complainant and R5 reveals that Velu is the financier from whom the petitioner had a loan transaction dating back to 2018. However, the FIR was lodged as though the original documents were stolen by the accused persons. After the notice issued by Velu, it became evident that the documents were handed over to him while availing the loan. Moreover, a public notice had already been issued by the respondents before the FIR was lodged, wherein they admitted that the original documents were deposited with them for the alleged mortgage loan.

23. As rightly observed by the learned Sessions Judge, this is a civil dispute between the parties regarding the loan transaction and an additional sale deed. Furthermore, the documents remain in the custody of respondents 2 to 5, confirming that they were not lost. Therefore, the non-traceable certificate issued by the respondent police is not valid. Since the documents are in the possession of the respondents, the defacto complainant has not approached the court with correct information.



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24. After availing of anticipatory bail, respondents 2 to 5 complied with the conditions by appearing before the respondent police. Some of the respondents also provided written replies to the police. Hence, they have not evaded the enquiry.

25. Additionally, R5 appeared before the respondent police and submitted a statement confirming that six original documents belonging to Naveen Balaji, five sale deeds and one power of attorney from 2007 to 2008 were in his possession. He further stated that he needed these documents to file civil proceedings for the recovery of the loan amount. Therefore, he agreed to hand over the documents through the court and expressed his willingness to cooperate whenever required.

26. On 07-06-2024, the respondent police issued summons for him to appear for enquiry on 12-06-2024. Subsequently, on 10-08-2024, he provided a statement. After obtaining bail, R5 appeared and submitted a statement confirming that he held the original documents based on the alleged loan transaction and required them to initiate civil proceedings.

27. The petitioner prays for the cancellation of bail on the grounds that



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the order passed by the learned Sessions Judge is illegal and perverse. He argues that the anticipatory bail was granted without considering the circumstances and gravity of the offense. However, the loan transaction between the parties dates back to 2018, and there was an exchange of notices regarding the same. After obtaining anticipatory bail, R5 appeared before the respondent police, submitted statements detailing the original documents in his possession, and informed the police of his intention to initiate civil proceedings for loan recovery. He also expressed willingness to abide by any conditions imposed by the court.

28. Furthermore, even before the issuance of the non-traceable certificate dated 17-07-2023, a public notice was issued by the accused, stating that the original documents were mortgaged with R5 for the loan borrowed by Naveen Balaji. Therefore, before issuing such a certificate, the police should have conducted a proper enquiry. Instead, they issued the non-traceable certificate immediately without considering all relevant facts and circumstances. This matter was already brought before the court through a writ petition.

29. Considering all facts and circumstances, and after hearing



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submissions from both sides, the learned trial judge granted bail with conditions. The respondents were directed to appear before the respondent police for interrogation and were instructed not to tamper with witnesses or obstruct the investigation. In compliance with the order, the respondents appeared before the police, and R5 submitted a statement confirming possession of the original documents. As they have been cooperating with the investigation and are willing to comply with further interrogation if required, this court finds no illegality in the order granting bail.

30. However, respondents 2 to 6 are directed to cooperate with the investigation whenever required by the respondent police. Additionally, if any civil suit is filed concerning the original documents, respondents 2 to 6 must inform the respondent police and produce the documents before the civil court within four weeks of filing such a suit to facilitate further investigation without interference of the observations made in this order, Court below empower to proceed as per manner know to law.

31. In view of the above, this Criminal Original petition is dismissed.



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Speaking Order/ Non Speaking Order

Index: Yes/ No

Neutral Citation: Yes/No

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To

1. The Principal Sessions Judge, Puducherry.
2. The State Rep. by Station House Officer,
B-2, Kalapet Police Station, Puducherry.
3. The Public Prosecutor,
High Court of Madras.

T.V.THAMILSELVI, J.

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