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CRL M.P. No.15980 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.01.2025

CORAM

The Hon'ble Mr.Justice P.DHANABAL

Crl. M.P. No.15980 of 2024

in Crl. O.P. No.25381 of 2024

S. Selvaraj S/o. Soundarajan Petitioner /
Defacto complainant.

VS

1. State represented by:-

The Inspector of Police,
Kottucherry Police Station,
Karaikal, Puducherry.
[Cr. No.107 of 2024]

... 1st Respondent /
Complainant

2. G. Govindarajan S/o. Gnanasekaran ... 2nd Respondent /
Accused

PRAYER: - The Criminal Miscellaneous Petition is filed under Section 483(3) of B.N.S..S. praying to cancel the anticipatory bail granted to the 2nd respondent / Accused vide order passed in Crl. O.P. No.25381 of 2024 dated 21.10.2024.



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For Petitioner : Mr. S. Ayyathurai
For Respondents : Mr. M.V. Ramachandramoorthy,
Additional Public Prosecutor, Puducherry
Assisted by
Mr. M. Thamizhmani
Government Advocate [Pondy]

ORDER

This petition has been filed by the petitioner to cancel the anticipatory bail granted to the 2nd respondent in Crl. O.P. No.25381 of 2024 dated 21.10.2024.

2. The learned counsel appearing for the petitioner would contend that he is the defacto complainant in the case and based on the complaint given by him, the 1st respondent police registered this case against the 2nd respondent and others in Cr. No.107 of 2024 for the offences under Sections 420 and 34 of IPC. While so, the 2nd respondent approached this Court for grant of anticipatory bail by filing a petition in Crl. O.P. No.25381 of 2024 by suppressing the fact that already he approached the District Court and the District Court dismissed the anticipatory bail petition filed by the 2nd respondent. Further the 2nd respondent has



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some previous cases and the same were also suppressed by the 2nd respondent. The 2nd respondent obtained anticipatory bail by suppressing the material facts. Therefore, the anticipatory bail granted to the 2nd respondent / accused has to be cancelled.

3. The learned Additional Public Prosecutor, Puducherry appearing for the 1st respondent police would submit that based on the complaint given by the petitioner, FIR has been registered against the 2nd respondent and other accused for the offences under Sections 420 and 34 of IPC. Thereafter, the 2nd respondent has filed an anticipatory bail petition before this Court. At that time, the respondent police inadvertently omitted to mention about the earlier bail petition filed by the 2nd respondent before the District Court. However, the defacto complainant appeared before this Court and contested the anticipatory bail petition and after hearing the defacto complainant, this Court passed an order. As far as the previous cases are concerned, no case is pending on the file of the respondent police and the alleged previous cases are pertaining at Tamil Nadu jurisdiction. Therefore, the 1st respondent



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police was unable to place the materials before this Court at the time of granting anticipatory bail to the 2nd respondent

4. This Court issued notice to the 2nd respondent. But it was returned as 'unserved' and thereafter, this Court issued notice through the 1st respondent police and they also served notice to the father of the 2nd respondent and no notice was served to the 2nd respondent.

5. Heard both sides' arguments and perused the materials available on record.

6. In this case, based on the complaint given by the petitioner herein, the 1st respondent police have registered the present case in Cr. No.107 of 2024 against the 2nd respondent and another for the offences under Sections 420 and 34 of IPC. While so, the 2nd respondent approached this Court for grant of anticipatory bail by filing a petition in CrI. O.P. No.25381 of 2024 and this Court also granted anticipatory bail on condition to the 2nd respondent. Thereafter he released on anticipatory bail and he also complied the conditions.



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7. The main contention raised by the petitioner / defacto complainant to cancel the anticipatory bail granted to the 2nd respondent is that the 2nd respondent suppressed the earlier bail petition filed by the 2nd respondent before the Sessions Court and the previous cases pending against the 2nd respondent. This Court also perused the affidavit and other papers filed by the petitioner / defacto complainant. From the records it is seen that already the 2nd respondent has approached the Sessions Court of Karaikal in Crl. M.P. No.274 of 2024 for the grant of anticipatory bail and the same was dismissed by the learned Sessions Judge through an order dated 24.09.2024. In the present anticipatory bail application filed by the 2nd respondent before this Court, the above said fact has not been disclosed by the 2nd respondent. However, the petitioner herein, who is the defacto complainant had also contested the anticipatory bail petition filed by the 2nd respondent before this Court by filing an intervening petition. At that time, they had not brought to the knowledge of this Court about the dismissal of the earlier anticipatory bail filed by the 2nd respondent before the Sessions Court, Karaikal.



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There is no any record to show that the 2nd respondent had wantonly suppressed the earlier bail application filed by him.

8. It is true that it is the duty of the petitioner who is filing the application for bail, to disclose about the earlier bail application filed by him. But in this case, while filing anticipatory bail petition before this Court, there was no reference about the earlier bail petition filed by the accused. At the same time, the petitioner herein, who was the intervenor, had also failed to bring to the knowledge of this Court about the earlier bail petition filed by the 2nd respondent herein. Therefore, at this stage, it is not appropriate to consider the submissions of the petitioner/ defacto complainant.

9. As far as the another ground raised by the petitioner that the 2nd respondent has some previous cases against him is concerned, as rightly stated by the 1st respondent police that there is no record found about the previous case within the jurisdictional of the Pondicherry and the alleged previous cases are pertaining to the Tamil Nadu police jurisdiction. The above said fact was also not brought to the knowledge of this Court at the



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time of granting anticipatory bail to the 2nd respondent. Now the petitioner is unable to serve notice to the 2nd respondent and without hearing the 2nd respondent, it is not appropriate to cancel the anticipatory bail granted to the 2nd respondent.

10. Therefore, as discussed supra, it is not appropriate to cancel the anticipatory bail granted to the 2nd respondent. Moreover, this Court while granting anticipatory bail, observed that there were money transactions between the parties and even as per the FIR, the allegation is that already there are money transactions between the parties and the 2nd respondent has also repaid interest for some period and thereafter, he has not repaid the amount. Therefore, this Court has not granted anticipatory bail based on the ground that no previous case is pending against the 2nd respondent, but on other grounds. Therefore, there is no ground to consider the cancellation of anticipatory bail application filed by the petitioner and the same is liable to be dismissed.

11. Accordingly, the Criminal Miscellaneous Petition is



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dismissed.

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index: Yes/No
Internet: Yes/No
Speaking/Non Speaking order
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P.DHANABAL,J
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To

1. The Public Prosecutor, High Court, Madras.
2. The Inspector of Police,
Kottucherry Police Station,
Karaikal, Puducherry.

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