

Crl.R.C.(MD).No.947 of 2024

'BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 19.02.2025

PRONOUNCED ON : 28.02.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.947 of 2024
and
CrI.M.P.(MD)No.10436 of 2024

Sundaramoorthi

... Petitioner/Respondent(Accused)

Vs.

The State represented by its,
The Sub Inspector of Police,
Devathanapatti Police Station,
Theni District.
(Crime No.199 of 2023)

.... Respondent/Petitioner(Complainant)

PRAYER: Criminal Revision Petition has been filed under Section 442 of BNSS, 2023 to call for the records relating to the impugned order passed in CrI.M.P.No.3695 of 2023, on the file of the learned Principal Sessions Judge, Theni, dated 05.09.2024 and set aside the same.



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For Petitioner : Mr.M.Jegadeesh Pandian
For Respondent : Mr.B.Thanga Aravindh
Government Advocate (Crl.Side)

ORDER

This Criminal Revision is directed against the order passed in Crl.M.P.No. 3695 of 2023 in S.C.No.33 of 2024, dated 05.09.2024, on the file of the Principal Sessions Court, Theni in cancelling the bail granted to the petitioner/accused in Crl.M.P.No.2864 of 2023, dated 24.08.2023, on the file of the said Court.

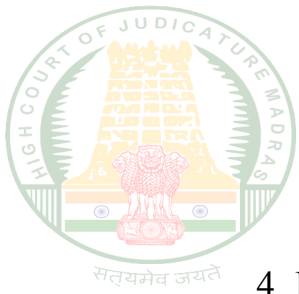
2. The case of the prosecution is that the defacto complainant is residing along with his deceased brother and sister at Narayanasamy street, Meenachipuram Village and the accused also hail from the same village, that the defacto complainant's cousin was in love with the second daughter of the petitioner / first accused and he was in the habit of making frequent visit to the first accused house, that on 08.06.2023 at about 19.00hours, the defacto complainant and his deceased brother went to their aunt's house and warned their cousin, that when both of them were returning, they were waylaid while they were crossing the accused house at 20.15 hours, that the accused gheraoed the defacto complainant and his brother, abused and assaulted them, that the first



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accused attacked the deceased with a sickle on his head and as a result, he fell down in a pool of blood and that the deceased was taken to DMS hospital, Batlagundu and after first aid, he was taken to Government Hospital, Batlagundu for further treatment, but despite treatment, he succumbed to injuries on 09.06.2023.

3. It is not in dispute that on the basis of the complaint lodged by the defacto complainant, F.I.R., came to be registered in Cr.No.199 of 2023 for the offences under Sections 341, 294(b), 342, 307, 506(ii) I.P.C., and subsequent to the death of the defacto complainant's brother, the case was altered for the offences under Sections 341, 294(b), 342, 302 and 506(ii) I.P.C. It is also not in dispute that the respondent police, after completing the investigation, filed a final report before the learned Judicial Magistrate Court, Periyakulam and the case was taken on file in P.R.C.No.36 of 2023, that subsequently the learned Magistrate has committed the case to the Sessions Court and the same was taken on file in S.C.No.33 of 2024, on the file of the Principal Sessions Court, Theni and that subsequently, the case was made over to the Additional District Court, Periyakulam.

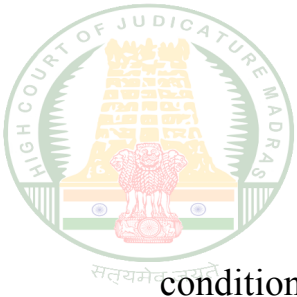


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4. It is not in dispute that the accused 1 to 4 filed a bail petition before the Principal Sessions Court, Theni and the learned Sessions Judge has granted bail only to the accused 3 and 4 and the petition in respect of the accused 1 and 2 came to be dismissed and that subsequently, the accused 1 and 2 have filed another petition in Crl.M.P.No.2864 of 2023 seeking bail and they were granted bail vide order dated 24.08.2023 by imposing conditions which includes a direction to the petitioner/first accused to report and sign before the respondent police daily at 10.30a.m., until further orders. Since the petitioner/first accused has not complied with the said condition imposed by the learned Principal Sessions Judge, the respondent has moved an application in Crl.M.P.No.3695 of 2023 seeking cancellation of bail granted to the petitioner.

5. The petitioner/first accused has filed a counter statement raising objections and further stated that all the accused had avoided to reside in their village and kept their house locked, as the relatives of the deceased had planned to murder the petitioner/first accused, that the relatives of the deceased had damaged the motor pumps, rooms, wires and doors belonging to the petitioner, for which a complaint came to be lodged, that all the accused persons had also filed a petition seeking police protection, but no action was taken, that the

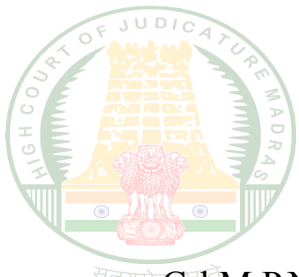


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conditions imposed on the other accused were already relaxed, that the petitioner along with the other accused had been appearing before the learned Magistrate Court in P.R.C.No.36 of 2023 and as such, it is not possible for the petitioner to abscond and only due to the threatening made by the relatives of the deceased, he could not comply with the conditions and that therefore, the petition is liable to be dismissed. The learned Principal Sessions Judge, by observing that all the other three accused had complied with the conditions and got their conditions relaxed and as such, the reason canvassed by the petitioner that he is facing life threats cannot be accepted and that since he has not complied with the condition imposed by the Court, the bail granted to him is liable to be cancelled and on that basis, cancelled the bail vide order dated 05.09.2024. Challenging the cancellation of bail, the present revision came to be filed.

6. The learned Counsel for the petitioner would submit that immediately after getting bail order, there was an apparent threat to the petitioner's life as the defacto complainant already had damaged the motor pumps, rooms, wires and doors of the accused house, that though a criminal complaint was lodged on 05.10.2023, there was no action on the part of the respondent police and hence the petitioner has moved with an application to modify the condition imposed in

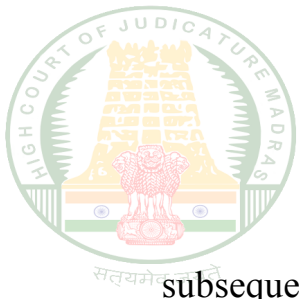


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Crl.M.P.No.3450 of 2023 and the same was dismissed on 04.10.2023, that the respondent police, after completing the investigation, has filed the final report and the case was taken cognizance in P.R.C.No.36 of 2023 on 20.09.2023, but only thereafter, the petition to cancel the bail was filed on 10.10.2023, that since the case was taken cognizance, there is no genuine reason available for the respondent to seek cancellation of bail only for non-compliance of the bail order, that during the pendency of the application to cancel the bail, the case was committed to Court of Sessions and the case was made over to the Additional District Court, Periyakulam, that the accused had appeared in all hearings and that there are no antecedents as against the petitioner, that sending the petitioner again to jail will not serve any purpose neither to the respondent nor to the trial Court and that the prosecution has now shown an overwhelming or supervening circumstances for cancelling the bail and that therefore, the impugned order cancelling the bail is liable to be set aside.

7. The learned Government Advocate (Crl.Side) would submit that the petitioner, after released on bail, absconded thereafter and did not report and sign before the respondent police as per the bail condition, that the petitioner's wife – A.3 and the daughter-in-law – A.4 had complied with the bail conditions and

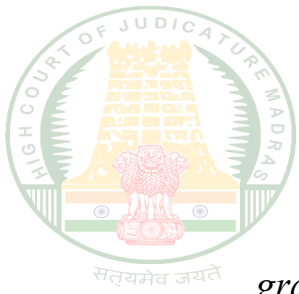


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subsequently their application to relax the conditions came to be allowed, that the petitioner without complying with the bail conditions, had filed a condition modification petition in Crl.M.P.No.3450 of 2023 and the same was dismissed, that the petitioner has neither filed any petition stating that there is a life threat nor did he prefer any complaint before the respondent police about the alleged threat and that since the petitioner had disobeyed and violated the bail conditions, the respondent police has rightly moved cancellation of bail and the same came to be allowed.

8. The learned Counsel for the petitioner would submit that the factors to be considered for cancellation of bail already granted and rejection of bail in non- bailable offences are entirely different and that the bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances existed and relied on the decision of the Hon'ble Supreme Court in ***Dolat Ram and others Vs. State of Haryana*** reported in ***(1995)1 SCC 349*** and the relevant paragraph is extracted hereunder:

“4. Rejection of bail in a non-bailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail, already



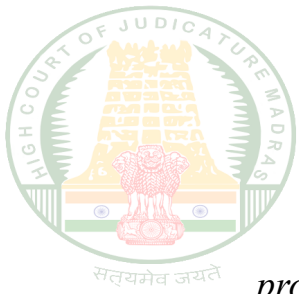
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granted. Generally speaking, the grounds for cancellation of bail, broadly (illustrative and not exhaustive) are: interference or attempt to interfere with the due course of administration of Justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the court, on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. However, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial. These principles, it appears, were lost sight of by the High Court when it decided to cancel the bail, already granted. The High Court it appears to us overlooked the distinction of the factors relevant for rejecting bail in a nonbailable case in the first instance and the cancellation of bail already granted.”

9. The learned Counsel for the petitioner would also rely on the judgment of the Hon'ble Supreme Court in ***Bhagwan Singh Vs. Dilip Kumar alias Deepu alias Depak and another*** reported in (2023)13 SCC 549, wherein the Hon'ble Apex Court by referring to ***Dolat Ram's case***, has observed as follows:

“14. This Court in Daulat Ram's case has held that the cancellation of the bail has to be dealt on a different footing in comparison to a



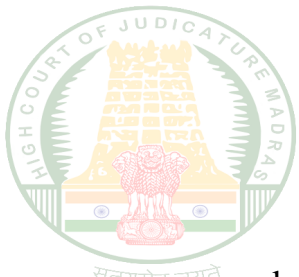
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proceeding for grant of bail. It has also been held that there can be supervening circumstances which may develop post the grant of bail and are non-conducive to the fair trial, making it necessary to cancel the bail and this principle has been reiterated time and again and more recently in the judgment of X V. State of Telangana.

15. This Court in [Vipin Kumar Dhir v. State of Punjab](#) 2021 SCC Online SC 854 has added caveat to the above principles and has further held that 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”

10. There is absolutely no dispute with regard to the legal position settled by the Hon'ble Supreme Court. In the case on hand, admittedly the petitioner is facing murder case. The learned Principal Sessions Judge, after dismissing the first bail petition, taking note of the fact that the petitioner was in judicial custody for 77 days, has granted bail on 24.08.2023 by imposing necessary conditions which includes that the petitioner has to report and sign before the



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respondent police daily at 10.30a.m., until further orders. It is admitted by the petitioner/first accused that he has not chosen to comply with the said direction, but according to him, since he was having life threat from the defacto complainant's side, he could not appear before the respondent police and hence, he was constrained to move the modification petition in Crl.M.P.No.3450 of 2023 before the Principal Sessions Court, Theni, on 27.09.2023. Admittedly, the said modification petition came to be dismissed by the learned Principal Sessions Court and challenging the same, the petitioner filed a petition in Crl.O.P. (MD)No.40144 of 2023 before this Court and the same also came to be dismissed.

11. It is not the case of the petitioner that after the dismissal of the modification petition before the Principal Sessions Court, he has attempted to appear before the respondent police. At this juncture, it is necessary to refer the decision of this Court in Crl.R.C.(MD)Nos.595 to 597 of 2012 in ***R.Looyis Raj vs V.Malaikannan Alias Kallalagar*** and the relevant passages are extracted hereunder:

“53. It is true that the Bail originally granted cannot be annulled or cancelled or varied in a casual manner. As stated already, cogent



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convincing reasonable and genuine reasons are to be furnished by the concerned Court when it decides the Cancellation of Bail. In the instant case on hand, the Petitioner/A3 by not abiding or adhering to the condition prescribed in the Bail order in Cr.M.P.No.2864 of 2012 dated 31.10.2012 had not obeyed the condition imposed in Cr.M.P.No.2864 of 2012 bonafide which perforced the Respondent/Police to file Cr.M.P.No.3050 of 2012 for Cancellation of Bail. In fact, he acted detriment to his interest in not adhering to the condition imposed by the Learned Principal Sessions Judge in Cr.M.P.No.2864 of 2012. His Heart Ailment, Medical treatment, intestine cate etc. will not come to Petitioner/A3's side when he wants to fly/escape from the arms of justice in not abiding the condition imposed in Cr.M.P.No.2864 of 2012 by the Learned Principal Sessions Judge, Ramanathapuram.

54. Suffice it for this Court to point out that when the Petitioner/A3's conduct in not abiding the condition imposed by the Principal Sessions Judge, Ramanathapuram (although reason assigned on his side that he was medically prevented from following the condition etc.) could not be an excuse or ruse in regard to the predicament/plight that he is in, in the considered opinion of this Court. In short, the purported medical treatment taken by the Petitioner/A3 at the Vijaya Heart Foundation Hospital and Angioplasty and stenting performed on him could not come to his aid when he had disobeyed the orders of the Learned Principal Sessions Judge as opined by this Court.



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12. In the above decision also, the accused therein has not complied with the conditions of the bail Court and even though the accused therein has attempted to show that he was not well and was taking treatment in the hospital, this Court by holding that the accused has disobeyed the orders of the Court and the alleged medical treatment could not come to his aid, confirmed the order of the Principal Sessions Court cancelling the bail granted to the accused there.

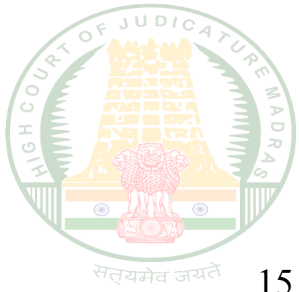
13. The learned Counsel for the petitioner would submit that the cancellation petition moved by the prosecution is pending for merely one year and the learned Principal Sessions Judge has passed orders only on 05.09.2024, that in the meanwhile, the learned Magistrate has taken cognizance of the case and subsequently committed the case to the Principal Sessions Court and thereafter, the case was made over to the Additional District Judge, Periyakulam and that the petitioner has been appearing before the trial Court regularly and that no purpose will be served in sending the petitioner again to prison at this point of time.



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14. Notably, despite being granted bail with conditions, the petitioner has failed to comply with those conditions. The sole reason cited is the alleged life threats, but as correctly argued by the learned Government Advocate (Crl.Side), the petitioner has not produced any evidence of having promptly lodged complaints with the jurisdictional police, higher police officials, or the jurisdictional Magistrate. As observed by the learned Principal Sessions Judge, the other accused, including the petitioner's wife and daughter-in-law, have complied with the conditions and successfully obtained relaxation of those conditions. The pendency of the case at the trial stage does not, by itself, entitle the petitioner/accused to condone his non-compliance. Accepting the petitioner's contention would set a precedent for accused individuals to disregard bail conditions and subsequently oppose cancellation of bail, citing the absence of other grounds. Given the petitioner's deliberate violation of the bail conditions, he cannot argue that no purpose would be served by sending him back to prison, in the absence of other grounds for bail cancellation.



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15. Considering the above, this Court has no hesitation to hold that since the petitioner has violated the conditions of the bail Court, the bail already granted is liable to be cancelled and as such, the impugned order cancelling the bail cannot be found fault with. Consequently, this Court concludes that the Criminal Revision is devoid of merits and the same is liable to be dismissed.

16. In the result, the Criminal Revision Case is dismissed. Consequently, the connected Miscellaneous Petition is also dismissed.

28.02.2025

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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To

1. The Principal Sessions Court, Theni.
2. The Sub Inspector of Police,
Devathanapatti Police Station,
Theni District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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K.MURALI SHANKAR, J.

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Pre-Delivery order made in

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