



Crl.R.C.(MD)No.1057 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 02.04.2025

Delivered on : 03.06.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.1057 of 2023

Sheik Abdullah

... Petitioner

Vs.

1.M.Bharathi

2.The State rep.by the Inspector of Police,
City Crime Branch,
Tiruchirappalli. Crime No.3 of 2023.

3.The Inspector of Police,
Economic Offences Wing (EDW)
Trichy.

... Respondents

(R3 is impleaded as per order of the Court, dated 27.02.2025 in
Crl.M.P(MD)No.2580 of 2025 in Crl.RC(MD)No.1057/2023)

PRAYER : Criminal Revision Petition filed under Section 397 and 401 of Cr.P.C., to call for the records relating to the order passed in Cr.M.P. No.20680 of 2023 on the file of the learned Judicial Magistrate No.III, Tiruchirappalli District, dated 24.07.2023 in connection with Crime No.3 of



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2023 on the file of the second respondent and set aside the same as illegal and consequently, cancel the bail granted to the first respondent/A2 in Crl.M.P.No.19984 of 2023.

For Petitioner : Mr.S.Ayyanar Prem Kumar

For Respondents : Mr.P.Senguttarasan, for R1.

: Mr.B.Thanga Aravindh,
Government Advocate (Criminal Side)
for R2 & R3.

ORDER

The Criminal Revision is directed against the order passed in Cr.M.P.No.20680 of 2023, dated 24.07.2023, on the file of the learned Judicial Magistrate No.III, Tiruchirappalli District, dismissing the petition filed under Section 437(5) of Cr.P.C.

2. On the basis of the complaint lodged by the petitioner, FIR came to be registered in Crime No.3 of 2023, dated 11.03.2023, against two persons including the first respondent herein for the alleged offences under Sections 417, 420, 294(b) and 506(i) IPC.



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3. It is not in dispute that the first respondent/second accused was arrested and remanded to judicial custody on 03.05.2023; that the first respondent has moved an application seeking bail in Crl.O.P(MD)No.10554 of 2023 before this Court and this Court has passed an order, dated 15.06.2023 granting bail, but subject to the condition that the first respondent shall deposit the original title deed which stands in her name or in her relative's name or in her friend's name worth about Rs.4 Crores along with the property valuation certificate from the competent authorities without prejudice to her defence and other conditions. It is also not in dispute that the first respondent has then moved an application seeking modification of the conditions imposed in Crl.M.P.(MD)No.8849 of 2023 in Crl.O.P.(MD)No. 10554 of 2023 and this Court vide order, dated 23.06.2023, dismissed the petition.

4. It is further evident that thereafter, the first respondent has moved an application under Section 167(2) of Cr.P.C., before the jurisdictional Magistrate Court seeking statutory bail as the jurisdictional Police has not filed the charge sheet for more than 61 days, since she was remanded to



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judicial custody and that the learned Magistrate, considering the stand taken by the prosecution that charge sheet has not filed till that time, invoking Section 167(2) of Cr.P.C., has passed an order, dated 03.07.2023 granting bail, but subject to the same conditions. The learned Magistrate directed the first respondent to appear and sign before the respondent police station every week Friday at 10.00 am for 15 days and that she shall not abscond either during investigation or trial and that she has to appear before the respondent police as and when required for interrogation.

5. When the first respondent was complying with the conditions imposed by the learned Magistrate while granting statutory bail, the petitioner filed the above petition under Section 437(5) of Cr.P.C., seeking orders to cancel the bail granted in favour of the first respondent.

6. The main reason canvassed by the petitioner is that the first respondent in the statutory bail application has suppressed the granting of regular bail with conditions by the High Court and the dismissal of the modification petition and that since the first respondent has suppressed the material facts and obtained statutory bail, the same is liable to be cancelled.



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7.The first respondent/second accused has filed counter statement stating that the High Court while granting regular bail has imposed condition to produce property documents worth about Rs.4 Crores; that though the first respondent moved for modification, the same came to be dismissed; that since the first respondent was not in a position to comply with the said condition, she was forced to remain in judicial custody; that since the jurisdictional police did not file the charge sheet within time stipulated, the first respondent invoking Section 167 of Cr.P.C., has filed the petition seeking statutory bail and the learned Magistrate considering the legal position in proper perspective that the regular bail is entirely different from the statutory bail and that since the first respondent was granted statutory bail legally, the question of cancelling the same does not arise.

8. The only point to be decided is when the first respondent was already granted regular bail with some conditions and in the absence of compliance of such conditions, whether the first respondent can seek and obtain statutory bail under Section 167(2) of Cr.P.C.



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9. The said issue is no more *res integra* as the Hon'ble Supreme Court in the case of ***Saravanan vs. State represented by the Inspector of Police*** reported in ***2021 SC (Cri) 40***, wherein also, in similar fact situation, regular bail was granted with condition to deposit some amount and the appellant's application for modification before the High Court was dismissed with liberty to approach the Magistrate Court, which granted bail. The appellant filed an application to release him on default bail/statutory bail under Section 167(2) Cr.P.C., but the said petition came to be dismissed by the Sessions Court and when the same was challenged, the High Court while granting statutory bail has directed the appellant to deposit a sum of Rs.8,00,000/- before the learned Magistrate and that when that order was challenged, the Hon'ble Apex Court by observing that the circumstances while considering the regular bail application under Section 437 of Cr.P.C., are different while considering the application for default bail and that the condition imposed by the High Court to deposit some amount cannot legally be sustained, set aside the impugned condition and allowed the appeal.



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10. Except the above ground, the petitioner has not canvassed any other reason or ground for cancelling the statutory bail. It is also evident from the records that when the first respondent and other accused in Crime No.3 of 2023 have filed a petition invoking Section 482 of Cr.P.C., to quash the FIR in Crl.O.P.(MD)No.12833 of 2023, the learned Judge of this Court, considering the submissions made by the prosecution that on the basis of the complaint given by one of the family members of the defacto complainant in Crime No.3 of 2023 another FIR in Crime No.2 of 2019 came to be registered before the Economic Office Wing, Trichy on 29.06.2019 for the alleged offences under Sections 406, 420 and 120(B) of IPC and Section 5 of Tamil Nadu Protection of Interest of Depositors (In Financial Establishments) Act, 1997, has passed an order, dated 29.08.2023 transferring the case in Crime No.3 of 2023 pending on the file of the second respondent police to the file of the Economic Office Wing, (EOW) Trichy/newly impleaded third respondent in the present revision. After impleadment of the third respondent, status report came to be filed and the same is recorded.



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11. In view of the above, this Court has no hesitation to hold that the Criminal Revision challenging the dismissal of petition for cancellation of statutory bail is absolutely devoid of merits and the same is liable to be dismissed.

12. In the result, the Criminal Revision Case is dismissed. The third respondent is directed to proceed with the investigation and complete the same and file the final report as expeditiously as possible.

03.06.025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
das

To

1. The Judicial Magistrate No.III, Tiruchirappalli District.
2. The Inspector of Police,
City Crime Branch, Tiruchirappalli.
3. The Inspector of Police,
Economic Offences Wing (EDW) Trichy.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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K.MURALI SHANKAR,J.

das

Pre-delivery order made in
Crl.R.C.(MD)No.1057 of 2023

Dated: 03.06.2025