



CRL.OP(MD). No.21830 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.01.2025

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.OP(MD). No.21830 of 2024

D.Joseph

... Petitioner

Vs.

1. The Inspector of Police,  
Vadaseri Police Station,  
Kanyakumari District.

2. A.Brammanayagam

... Respondent/ Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to cancel the anticipatory bail order passed by the Principal Sessions Judge, Kanyakumari District at Nagercoil in Crl.M.P.No.3145 of 2024 dated 23.08.2024.

For Petitioner : Mr.Mayilvahana Rajendran  
for Mr. V.Malaiyendran

For R1 : Mr.B.Thanga Aravindh  
Government Advocate (Crl. Side)

For R2 : Mr.S.Palanivelayutham

### ORDER

This petition has been filed for cancellation of anticipatory bail granted by the learned Principal Sessions Judge, Kanyakumari District at Nagercoil in



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Crl.M.P.No.3145 of 2024 dated 23.08.2024.

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2. The petitioner, who is the defacto complainant gave a complaint to the effect that the 1<sup>st</sup> respondent had lodged a complaint before the District Consumer Redressal Commission by forging the signature of the defacto complainant and impersonating him. Based on this complaint and based on the orders passed by this Court in W.P.(MD).No.14197 of 2024 dated 24.07.2024, an FIR came to be registered in Crime No.211 of 2024. The 1<sup>st</sup> respondent apprehending arrest filed Crl.M.P.No.2866 of 2024 before the Principal Sessions Judge, Kanniyakumari seeking for anticipatory bail. The said petition was dealt with on merits and an order was passed on 22.07.2024 dismissing the application.

3. The 1<sup>st</sup> respondent filed yet another anticipatory bail petition before the same Court in Crl.M.P.No.3145 of 2024 and within a month, anticipatory bail was granted by an order dated 23.08.2024. Aggrieved by the same, present petition has been filed before this Court.

4. In the considered view of this Court, the Sessions Court dealt with the earlier anticipatory bail petition in Crl.M.P.No.2866 of 2024 on merits and found that the case does not merit grant of anticipatory bail based on the allegations made. While so, when the Court considers the second anticipatory bail petition, the Court has to necessarily give a finding as to what is the change in circumstances warranting the



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same to be entertained and issuing the order in favour of the accused person. There is  
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no bar in filing subsequent anticipatory bail petition after earlier anticipatory bail petition is dismissed. However, the Apex Court, in order to have a check and to maintain consistency, has categorically held that change in circumstances must be the ground to entertain the subsequent anticipatory bail petition, more particularly where the earlier petition was dismissed on merits. Apart from that, certain vital facts which were not brought to the notice of the Court can also create a cause of action for filing the subsequent anticipatory bail petition order and while entertaining and granting the same.

5. In the case on hand, the materials that was available before the Court while dealing with the earlier anticipatory bail petition was the same material that was available when the subsequent anticipatory bail petition was entertained. Therefore, everytime the Court cannot deal with the merits of the case and come to a different conclusion. Such procedure adopted will create uncertainty and the very order will become questionable. The Court below has entertained the subsequent anticipatory bail petition and granted anticipatory bail without any change in circumstances based on the very same materials, which was already dealt with in the earlier anticipatory bail petition order which was dismissed by the same Court.

6. In view of the same, this Court has to necessarily interfere with the order



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passed by the learned Principal Sessions Judge, Kanyakumari District at Nagercoil in  
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Crl.M.P.No.3145 of 2024 dated 23.08.024 and the same is hereby set aside.

7. In the result, the Criminal Original Petition is allowed in the above terms.

sd/-  
21/01/2025

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/02/2025  
Sub-Assistant Registrar  
( C.S. I / II / III / IV )  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

SMA  
TO

1 THE PRINCIPAL SESSIONS JUDGE,  
KANYAKUMARI DISTRICT AT NAGERCOIL.

2 THE INSPECTOR OF POLICE,  
VADASERI POLICE STATION,  
KANYAKUMARI DISTRICT.

3 THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT,  
MADURAI.



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ORDER

IN

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Date :21/01/2025

SA/GSV/SAR. /03.02.2025/5P/4C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.