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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

( Criminal Jurisdiction )

Date : 31/07/2024

PRESENT

The Hon`ble Mr.Justice A.A.NAKKIRAN

CRL OP(MD). No.8697 of 2024

Raja Gopalan

... Petitioner/defacto complainant

Vs

1.State through, the Inspector of Police,  
Kadayanallur Police Station,  
Tenkasi District.

... 1<sup>st</sup> respondent / Complainant

2.Sahul Hameed

... Respondent/sole accused

For Petitioner : Mr.G.Karuppasamy Pandian  
Advocate.

For Respondent : Mr.M.Vaikkam Karunanithi,  
Govt. Advocate (Crl.Side) (for R1)

Mr.V.Muthukamachi (for R2)

PETITION FOR CANCELLATION OF BAIL Under Sec.483(2) of  
Cr.P.C



PRAYER :-

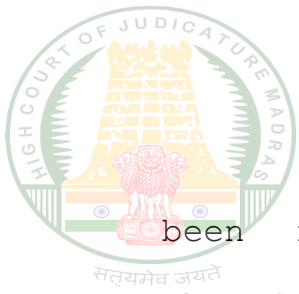
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C-24C. To cancel the bail granted by the Judicial Magistrate, Tenkasi in docket order of bail in Cr.No. 59/2024 dated 10.05.2024 and direct the accused to be arrested and to commit him to custody.

ORDER : The Court made the following order :-

This Criminal Original Petition has been filed to cancel the bail granted by the Judicial Magistrate, Tenkasi in docket order of bail in Cr.No.59/2024 dated 10.05.2024 and direct the accused to be arrested and to commit him to custody.

2. The learned counsel for the petitioner would submit that the learned Judicial Magistrate has passed the bail order only in four lines, which do not explicit the application of mind by the Magistrate while granting bail. Except stating that the accused was released on bail based on medical condition, there was nothing to show what is the ailment with which, the accused suffers and what is prompted the Court to incline to grant bail. Hence, the discretion of the Magistrate to grant bail has



been misused by passing the cryptic bail order.

Therefore, the learned counsel seeks to cancel the bail granted to the second respondent/accused.

3. The learned Government Advocate (criminal side) appearing for the first respondent/defacto complainant would submit that in a non-bailable offence, it is mandatory to give notice to the prosecution agency to hear their objection and hence, sufficient opportunity has to be given to the prosecution agency to submit their contention. However, in this case, the learned Judicial Magistrate has failed to give any time to the prosecution agency to make their submissions with regard to the grant of bail to the accused. The learned Magistrate has not discussed about the ailment with which the accused was suffering and there is no document filed on behalf of the second respondent/accused to show what was the ailment. Hence, the learned Government Advocate (criminal side) prays to cancel the bail granted to the second respondent/accused.

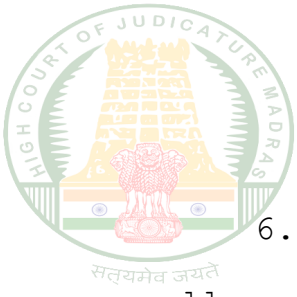
4. The learned counsel for the second respondent/accused would submit that the second



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respondent/accused is aged about 80 years. Hence, the learned Judicial Magistrate has granted bail by considering the age, ailment and medical records of the second respondent/accused. Hence, there is no necessity to interfere with the bail order. Therefore, he prays for dismissal of this petition.

5. This Court, by order dated 18.07.2024, directed the Registry to call for explanation from the Judicial Magistrate, Tenkasi, who passed the impugned bail order, with regard to the non-speaking docket order of bail. The learned Judicial Magistrate has also submitted his explanation, wherein, he has stated that the bail was granted only on the medical grounds. In the explanation, he has stated so many ailment, however, in the order copy, there is no whisper about the same. Further, a perusal of the records shows that sufficient opportunity was not given to the prosecution to submit their contentions. Hence, it is a clear abuse of process of law. Hence, the bail granted to the second respondent/accused is liable to be cancelled. Accordingly, the same is cancelled.



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6. In the result, this Criminal Original Petition is allowed.

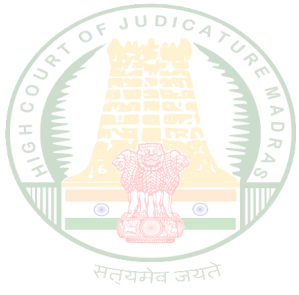
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(A A N J)  
31.07.2024

SKN

TO

1. The Judicial Magistrate, Tenkasi.
2. The Inspector of Police,  
Kadayanallur Police Station,  
Tenkasi District.
3. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.



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VERDICTUM.IN



CRL OP(MD). No.8697 of 2024

A . A . NAKKIRAN , J

SKN

ORDER  
IN  
CRL OP (MD) No.8697 of 2024

Date : 31/07/2024