

G.R. Ananda Babu vs The State Of Tamil Nadu on 28 January, 2021

Bench: A.M. Khanwilkar, B.R. Gavai, Krishna Murari

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IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2021
(Arising out of SLP(Crl.)No. 213 of 2021)

G.R. ANANDA BABU

Appellant(s)

VERSUS

THE STATE OF TAMIL NADU & ANR.

Respondent(s)

O R D E R

Leave granted.

Heard learned counsel for the parties. This appeal takes exception to the judgment and order dated 24.11.2020 passed by the High Court of Judicature at Madras in Crl. O.P. No. 18412 of 2020, granting anticipatory bail to respondent No.2 in connection with FIR No. 153 of 2019 for the offences punishable under Sections 143, 436, 302, 307, 149 and 120B of Indian Penal Code.

The incident in question has occurred on 11.11.2019. Respondent No. 2 applied for anticipatory bail before the High Court first vide Crl. O.P. No. 32759 of 2019, which came to be rejected by a speaking order dated 20.12.2019. Despite rejection of anticipatory bail by the High Court, respondent No.2 after some gap moved another application for anticipatory bail being Crl. O.P. No. 8023 of 2020 which for reasons, cannot be discerned from the record, was heard by another judge. Nevertheless, it was rejected vide a speaking order dated 29.05.2020 and more importantly taking note of the fact that there was no change in circumstances and the investigation was still incomplete. Respondent No. 2 then moved a third anticipatory bail application being Crl. O.P. No. 18412 of 2020, which has been allowed by the impugned judgment by the same Judge, who had rejected the second anticipatory bail application, referred to above, vide order dated 24.11.2020 (impugned order).

On this occasion, the learned Judge recorded following reasons for acceding to the request for grant of anticipatory bail to respondent No.2. The same read thus:

“(i) The date of occurrence is 11.11.2019.

(ii) Other 13 accused were arrested and surrendered, their confessional statements were recorded and they were released on bail.

(iii) 127 private witnesses were examined and their statements were recorded.

(iv) 12 months is over from the date of occurrence.

(v) Six months have passed from the date of dismissal of earlier anticipatory bail application.

(vi) The petitioner is aged 69 years alleged to be suffering from age related ailments and he is willing to co-operate with the investigation.” We have perused the status report submitted by the Investigating Officer before the High Court for consideration along with case diary, clearly indicating that custodial interrogation of respondent No. 2 is essential and the investigation is still incomplete.

Nevertheless, on the third occasion, the learned Judge acceded to the request of respondent No. 2 and granted anticipatory bail, without referring to the said status report. None of the reasons cited by the learned Judge, in our opinion, can be said to be just basis to show indulgence to respondent No. 2.

As a matter of fact, successive anticipatory bail applications ought not to be entertained and more so, when the case diary and the status report, clearly indicated that the accused (respondent No. 2) is absconding and not cooperating with the investigation. The specious reason of change in circumstances cannot be invoked for successive anticipatory bail applications, once it is rejected by a speaking order and that too by the same Judge.

To observe sobriety, we refrain from making any further observation, except to observe, that the impugned order, to say the least, is perverse; and also because no prejudice should be caused to respondent No.2 and affect the trial against him.

Accordingly, the impugned judgment and order is set aside. The Investigating Officer is free to take respondent No. 2 into custody forthwith. The appeal is allowed in the above terms. Pending applications, if any, stand disposed of.

.....J (A.M. KHANWILKAR)J (B.R. GAVAI)J (KRISHNA MURARI) New Delhi January 28, 2021 ITEM NO.15 Court 5 (Video Conferencing) SECTION II-C SUPREME COURT OF INDIA RECORD OF PROCEEDINGS Petition(s) for Special Leave to Appeal (Crl.) No(s). 213/2021 (Arising out of impugned final judgment and order dated 24-11-2020 in CRLOP No. 18412/2020 passed by the High Court Of Judicature At Madras) G.R. ANANDA BABU Petitioner(s) VERSUS THE STATE OF TAMIL NADU & ANR. Respondent(s) IA No. 131000/2020 - CANCELLATION OF BAIL IA No. 5533/2021 - EXEMPTION FROM FILING AFFIDAVIT IA No. 130997/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT IA No. 130998/2020 - EXEMPTION FROM FILING O.T.) Date : 28-01-2021 These

matters were called on for hearing today. CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE KRISHNA MURARI For Petitioner(s) Mr. Rajnish Kumar
Jha, AOR For Respondent(s) Mr. Rajeev Singh, AOR Mr. M. Yogesh Kanna, AOR
Shri Sidharth Luthra, Sr.Advocate Mr. Rajarajeswaran,S,Advocate Mr. Aditya
Chadha, Advocate Shri. J K Sharma, Advocate UPON hearing the counsel the Court
made the following O R D E R Leave granted.

The Appeal is allowed in terms of the signed order.

Pending applications, if any, stand disposed of.

(DEEPAK SINGH)
COURT MASTER (SH)

(VIDYA NEGI)
COURT MASTER (NSH)

[Signed order is placed on the file]