

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Crl.O.P.Nos.10801 to 10803 of 2015

Crl.O.P.No.10801 of 2015:

Murugaiyan

...Petitioner

Vs

1.State, rep. by
Inspector of Police,
Sriperumbudur Police Station,
Kancheepuram District.

2.Ravi
3.Vinoth Kumar
4.Guna
5.Ganesh
6.Muthukumar
7.Shankar

...Respondents

Crl.O.P.No.10802 of 2015:

Murugaiyan

...Petitioner

Vs

1. State, rep. by
Inspector of Police,
Sriperumbudur Police Station,
Kancheepuram District.

2.Velliyan

...Respondents

Crl.O.P.No.10803 of 2015:

Murugaiyan

...Petitioner

Vs

1. State, rep. by
Inspector of Police,
Sriperumbudur Police Station,
Kancheepuram District.

2.Iyyappan

...Respondents

Criminal Original Petition No.10801 of 2015 has been filed under Section 439(2) Cr.P.C. to cancel the bail granted to the accused/ respondents 2 to 7 herein in the case registered as Crime No.208 of 2015 on the file of the first respondent by the District Munsif cum Judicial Magistrate, Sriperumbudur in C.M.P.No.743 of 2015 dated 15.4.2015.

Criminal Original Petition No.10802 of 2015 has been filed under Section 439(2) Cr.P.C. to cancel the bail granted to the accused / second respondent herein in the case registered as Crime No.208 of 2015 on the file of the first respondent by the District Munsif cum Judicial Magistrate, Sriperumbudur in C.M.P.No.744 of 2015 dated 15.4.2015.

Criminal Original Petition No.10803 of 2015 has been filed under Section 439(2) Cr.P.C. to cancel the bail granted to the accused / second respondent herein in the case registered as Crime No.208 of 2015 on the file of the first respondent by the District Munsif cum Judicial Magistrate, Sriperumbudur in C.M.P.No.748 of 2015 dated 15.4.2015.

For Petitioner : Mr.C.Munusamy,
in all the petitions.

For Respondents : Mr.M.Mohamed Riyaz,
Govt. Advocate (Crl. Side),
for R.1 in all the petitions.

COMMON ORDER

Criminal Original Petition No.10801 of 2015 has been filed by the petitioner to cancel the bail granted to the accused / respondents 2 to 7 in the case registered as Crime No.208 of 2015 on the file of the first respondent police by the learned District Munsif cum Judicial Magistrate, Sriperumbudur in C.M.P.No.743 of 2015 dated 15.4.2015.

2. Criminal Original Petition No.10802 of 2015 has been filed by the petitioner to cancel the bail granted to the accused /

second respondent in the case registered as Crime No.208 of 2015 on the file of the first respondent police by the learned District Munsif cum Judicial Magistrate, Sriperumbudur in C.M.P.No.744 of 2015 dated 15.4.2015.

3. Criminal Original Petition No.10803 of 2015 has been filed by the petitioner to cancel the bail granted to the accused / second respondent in the case registered as Crime No.208 of 2015 on the file of the first respondent police by the learned District Munsif cum Judicial Magistrate, Sriperumbudur in C.M.P.No.748 of 2015 dated 15.4.2015.

4. The petitioner in all the petitions is the de facto complainant and the respondents 2 to 6 in Crl.O.P.No.10801 of 2015 and the second respondent in Crl.O.P.Nos.10802 and 10803 of 2015 are all accused Nos.2 to 9 in Crime No.208 of 2015 for the offence under Section 379 I.P.C. on the file of the first respondent police.

5. The case of the petitioner is that he is working as a Security and Para Legal Advisor at PHA Company, Irunkattukottai, which is a manufacturing company of car accessories. The said company has given authorisation to remove the iron scraps to a firm viz., Sakthi Traders through the vehicles bearing Registration Nos.TN 04 M 8559, TN 03 AW 1860, TN 67 U 5841 and TN 04 Q 5951. Apart from these vehicles, no other vehicle are permitted to enter into the premises for the purpose of taking iron scrap from PHA company. While so, all the accused persons have hatched a plan to take away the iron scrap illegally without the knowledge of the officials of the company. They have taken the vehicles bearing Registration Nos.TN 21 E 6664 and TN 20 AX 9150 for the purpose of steal the iron scrap. All the accused persons with the connivance of each other and other officials of the company, had stolen the iron scrap worth about to Rs.23,00,000/- from the period from 27.11.2014 to 20.3.2015 and sold the same to one Pon Sekar at Ramapuram, Chennai. The said fraud and theft had been found by the petitioner only on 2.4.2015 when he was verifying the CCTV footage and other inward and outward registers. Immediately, he has given a complaint to the first respondent police and the same was registered in Crime No.208 of 2015. During investigation, based on the confession statements of the accused Muthukumar and Iyyappan, the first respondent police has recovered a part of the stolen properties. Now, the investigation is at the threshold stage. At this juncture, all the accused filed bail petitions in C.M.P.Nos.743, 744 and 748 of 2015 before the learned District Munsif cum Judicial Magistrate, Sriperumbudur. In the said petitions, the petitioner herein filed intervening petitions to oppose the bail on the ground that the stolen properties are yet to be recovered. However, the learned Magistrate, without considering the said aspect, has granted bail to all the accused persons by order

dated 15.4.2015 on the ground that the first respondent police did not come forward with any petition seeking police custody. Now, the present petitions have been filed by the petitioner herein for cancellation of the bail granted by the learned Magistrate.

6. The main submission of the learned counsel appearing for the petitioner is that the major portion of the stolen properties are yet to be recovered. But, without considering this aspect, the learned Magistrate granted bail to the accused persons. Hence, the bail already granted to them is liable to be cancelled.

7. However, in my considered opinion, the said submission made by the learned counsel appearing for the petitioner will not serve as a ground for cancellation of bail granted to the accused persons. Once bail is granted by the Court below, it could be cancelled only if the accused persons abuse the said concession. In this regard, a reference could be placed in the judgment of the Hon'ble Supreme Court reported in (1995) 1 Supreme Court Cases 349 - Dolat

Ram and others v. State of Haryana, wherein it has been held as follows:-

" Rejection of bail in a non-bailable case at the initial stage and the cancellation of bail already 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 bail already 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."

8. In yet another decision reported in (2009) 10 Supreme Court Cases 652 - Hazari Lal Das v. State of West Bengal and another, the Hon'ble Supreme Court by relying upon the above said decision in the case of Dolat Ram and others v. State of Haryana reported in (1995) 1 Supreme Court Cases 349, has held as follows:-

" 7. There is nothing on record that there has been interference or attempt to interfere with the due course of administration of justice by the appellant. It also does not appear from the record that the concession granted to him has been abused in any manner. No supervening circumstances have surfaced nor shown justifying cancellation of anticipatory bail. The judicial discretion exercised by the Sessions Judge in granting the anticipatory bail has been interfered with by the High Court in the absence of cogent and convincing circumstances. We are, thus, satisfied that the impugned order cannot be sustained."

9. The dictum laid down in the above cases would clearly show that once bail is granted, the same cannot be cancelled in a mechanical manner. Only if there is any abuse of concession granted to the accused, then only the Court can cancel the bail. In the instant case, it is the submission of the learned counsel appearing for the petitioner that all the accused persons with the connivance of each other and other officials of the company, had stolen the iron scrap worth about to Rs.23,00,000/- and the major portion of the stolen properties are yet to be recovered. However, the same cannot serve as a ground for cancelling the bail granted to the accused persons and on the ground alone, the bail already granted to them cannot be cancelled.

10. For the reasons stated above, I am of the opinion, the petitioner has not made out any case to cancel the bail granted to the accused persons by the learned District Munsif cum Judicial Magistrate, Sriperumbudur, vide order dated 15.4.2015 in C.M.P.Nos.743, 744 and 748 of 2015.

11. In fine, all the criminal original petitions are dismissed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

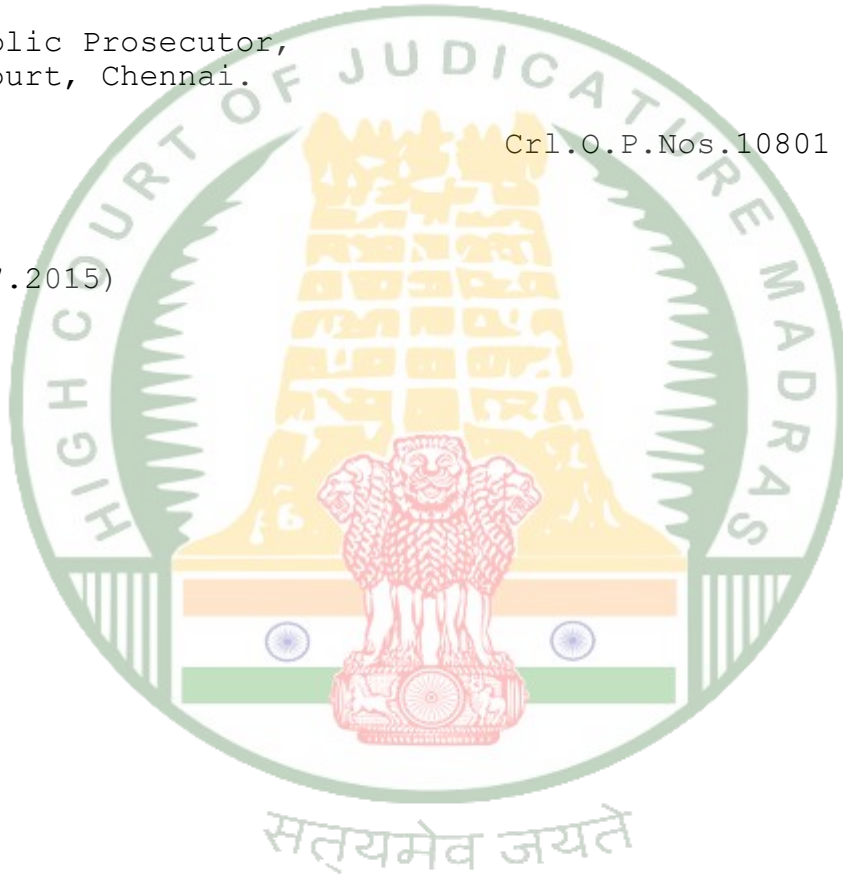
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To

1. The District Munsif cum Judicial Magistrate,
Sriperumbudur.
2. -Do- Through Chief Judicial Magistrate,
Kancheepuram.
3. The Inspector of Police,
Sriperumbudur Police Station,
Kancheepuram District.
4. The Public Prosecutor,
High Court, Chennai.

Crl.O.P.Nos.10801 to 10803 of 2015

KV (CO)
PSI (23.07.2015)



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