

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2016

CORAM:

THE HON'BLE MR.JUSTICE R.SUBBIAH

Cr1.O.P.No.29671 of 2015

J.Subramani

... Petitioner

Vs.,

1.State rep. by

The Superintendent of Police,
O/o.The Superintendent of Police,
Udhagamandalam,
The Nilgiris District,
Crime No.1/2015.

2.The Inspector of Police,
District Crime Branch,
Udhagamandalam,
The Nilgiris District.

... Respondents

Prayer: Petition filed under Section 482 of the Criminal Procedure Code praying to direct the respondents-Police to recall the look-out notice issued to the Emigration authorities in Mumbai Airport and all other Airports in Crime No.1/2015 on the file of the respondents-police.

For Petitioner : Mr.J.R.Prabhakaran

For Respondents : Mr.C.Emalias, APP

ORDER

This petition has been filed by the petitioner praying to direct the respondents-Police to recall the look-out notice issued to the Emigration authorities in Mumbai Airport and all other Airports in Crime No.1/2015 on the file of the respondents-police.

2.In the affidavit filed in support of this petition, it has been stated by the petitioner that he is a Doctorate in Co-operative Management and he is working as an Assistant Professor of Co-operative Management, Department of Cooperattives, Institute of Cooperative Management and Development Studies, Ambo University, ETHIOPIA, East Africa, under the United Nations Development Programme (UNDP), since 2003. The petitioner's wife and children are in India. The petitioner used to come to India once in a year to meet his family. On 28.10.2014, the

petitioner has come to India on medical reasons and he was taking treatment for a hair line crack in his left foot at Ganga Hospital, Coimbatore. While so, the first accused Senthilkumar induced the petitioner and promised the petitioner to secure a job in Russia for lucrative salary. Believing his words, the petitioner has transferred a sum of Rs.19,10,100/- to the bank accounts of the first accused, through the petitioner's bank account held at Bank of India, Coonoor, towards processing fee and miscellaneous expenses. Later on, the petitioner came to know that the first accused has cheated the petitioner and others and he has not arranged for the job as promised. While so, the petitioner was shocked to know that the petitioner along with A1 & A2 were charged for the alleged offences under Sections 406, 420 r/w 120(b) IPC. The petitioner is innocent and he has been falsely implicated in the said case. Hence, he filed an application seeking anticipatory bail in CrI.O.P.No.2993/2015 before this Court. By order dated 28.07.2015, this Court has dismissed the anticipatory bail in respect of the 1st accused and has granted anticipatory bail to the petitioner/A3, on condition that the petitioner shall produce two sureties to the satisfaction of the learned Judicial Magistrate, Coonoor and to appear before the respondent-police for 15 days and thereafter, as and when required. The petitioner has complied with the said conditions. It is further stated by the petitioner that the petitioner having lost all his hard earned money to the 1st accused and having lost his job, was put to severe mental agony and monetary loss. Somehow, the petitioner contacted his employer in Ethiopia and explained all the above facts. Taking into account the past conduct of the petitioner, the employer allowed the petitioner to resume his job. Hence, the petitioner immediately rushed to resume his job and on 01.1.2015 at 8.00 hrs, the petitioner went to Mumbai Airport to board the Air India flight flying from Mumabi-Addias Ababa, Ethiopia. To the shock and dismay of the petitioner, he was retained by the emigration officials in Mumbai Airport, stating that a look-out notice was issued by the respondents-Police against the petitioner. According to the petitioner, there is no order of the Court restraining the petitioner from resuming his job and the conditions imposed by the Court in the anticipatory bail order were complied with by him; hence, the emigration officials have no authority to stop the petitioner from going abroad in the absence of an order of this Court to that effect. Hence, the petitioner has come forward with this petition before this Court seeking to direct the respondents-Police to recall the look-out notice issued to the Emigration authorities in Mumbai Airport and all other Airports in Crime No.1/2015 on the file of the respondents-police.

3.The 2nd respondent-Police has filed a counter affidavit stating that during the course of investigation, the 1st accused Senthilkumar was arrested on 28.09.2015; the accused 2 & 3 have

obtained anticipatory bail from the Court. Further, the accused 1 & 2 are the husband and wife. The petitioner herein/A3 is the brother of A1. Further, the accused 2 & 3 did not comply with the conditions imposed in anticipatory bail order dated 28.07.2015; hence, the investigating officer has given look-out notice to 'The Foreigners Regional Registration Officer, M.H.A. Govt.Of India, Shastri Bhavan Annexure 26, Haddows Road, Chennai. Only based on the said look-out notice, the petitioner was detained by the Emigration Officers at Mumbai on 01.10.2015, at Rajiv Gandhi International Airport, Mumbai and it was intimated to the respondents-Police through fax on the same day. Now, the investigation is at the final stage and the 2nd respondent-Police will file chargesheet, after obtaining legal opinion. At this stage, if the petitioner/A3 is permitted to go abroad, it will become very difficult to proceed with the investigation. Thus, the 2nd respondent-Police sought for dismissal of the petition.

4.Heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor and perused the materials available on record.

5.From a perusal of the materials available on record, I find that the allegations in the complaint are mainly as against the 1st accused. In fact, considering the entire materials available on record, this Court has granted anticipatory bail to the petitioner herein and dismissed the anticipatory bail petition in respect of the 1st accused. Now, the petitioner has to resume his job in Ethiopia. Therefore, considering the factual aspects of the case, I am of the opinion that the prayer of the petitioner in this petition could be entertained by imposing certain conditions.

6.Accordingly, the petitioner is directed to furnish the particulars with regard to address of the petitioner and contact phone number, in Ethiopia as well as in India, to the respondents-Police, within a period of two weeks from the date of receipt of a copy of this order. On furnishing such particulars, the respondents-police are directed to recall the look-out notice issued against the petitioner.

With the above terms, this criminal original petition is disposed of.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To,

1.The Superintendent of Police,
O/o.The Superintendent of Police,
Udhagamandalam,
The Nilgiris District,
Crime No.1/2015.

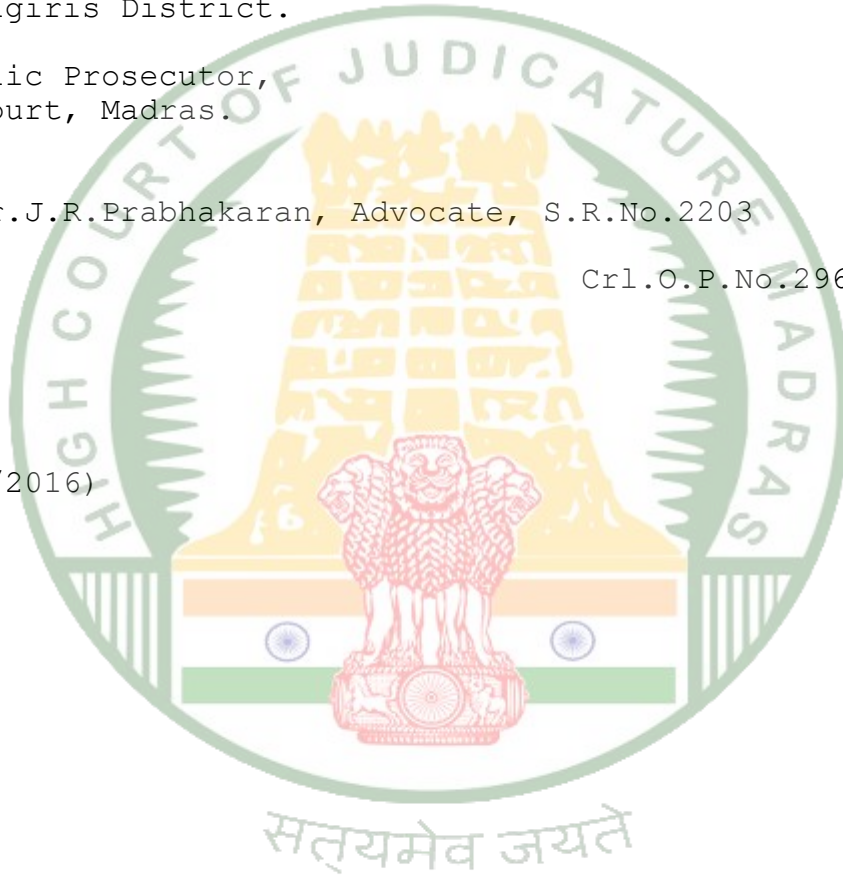
2.The Inspector of Police,
District Crime Branch,
Udhagamandalam,
The Nilgiris District.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.J.R.Prabhakaran, Advocate, S.R.No.2203

CrI.O.P.No.29671 of 2015

svi(CO)
srg(28/01/2016)



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