

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 19.09.2017

PRONOUNCED ON: 04.10.2017

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. Nos.3422 and 3423 of 2016

1 K. Sudhakar
 2 G. Gopala Krishnan
 3 S. Gopi
 4 D. Venkatesan
 5 K. Annamelan
 6 P. Harikrishnan

Petitioners in both the Crl.O.Ps.

1 State represented by
 the Inspector of Police
 District Crime Branch Police Station
 (Cr. No.12/2015)

2 Srikanthan Respondents in Crl.O.P. No.3422/2016

1 State represented by
 the Inspector of Police
 District Crime Branch Police Station
 (Cr. No.12 of 2015)

2 G. Deepan

3 The Chief Working Manager
 Carriage Repair Shop

4 Thirupathi 517 506, A.P.
The Divisional Railway Manager
House No.3, Prahabat Nagar, Guntakal

5 The General Manager
99 Rail House
Lancher Lines
Secunderabad 500 071

Respondents in Crl.O.P. No.3423 of 2016

Criminal Original Petitions filed u/s 482 Cr.P.c. seeking to cancel the bail granted to the second respondent in Crl.M.P. Nos.3759 and 4096 of 2015 by the Sessions Judge, Thiruvannamalai vide order dated 07.10.2015 and 29.10.2015 respectively.

For petitioners in
both the Crl.O.Ps.

Mr. P. Ganapathy

For R1 in
both the Crl.O.Ps.

Mr. C. Emalias
Additional Public Prosecutor

For R2 in
both the Crl.O.Ps.

Mr.P. Settu

For RR 3-5 in
Crl.O.P. No.3423/2016

Mr. V. Haribabu

COMMON ORDER

These petitions have been filed seeking cancellation of bail granted to the accused, viz., Deepan and Srikanthan, who are the second respondent in Crl.O.P. Nos.3422 and 3423 of 2016 respectively.

2. On the complaint lodged by one of the petitioners, the respondent police registered a case in Cr. No.12 of 2015 on 24.09.2015 for the offence under Section 420 IPC and thereafter, altered the case into one under Sections 120-B, 464, 468, 471, 420 and

506(i) IPC and took up investigation.

3. It is the case of the petitioners that the accused promised to get job for them in the Railways and collected Rs.2 lakhs from each of them and thereafter, issued fake appointment orders. The petitioners collected the fake appointment orders and went to Calcutta to join in the Eastern Railway and only then, they realised that the appointment orders issued to them by the accused were fake ones. After registering the FIR, the police arrested Srikanthan and Deepan on 25.09.2015 and 03.10.2015 respectively and remanded them to custody. Srikanthan was granted bail in Crl.M.P. No.3759 of 2015 on 07.10.2015 by the Sessions Judge, Tiruvannamalai and Deepan was granted bail in Crl.M.P. No.4096 of 2015 on 29.10.2015 by the Sessions Judge, Tiruvannamalai. Aggrieved by the grant of bail to Deepan and Srikanthan, the petitioners have preferred the present applications seeking cancellation of bail.

4. Heard the learned counsel for the petitioners and the learned counsel for the accused/second respondents.

5. The learned counsel for the petitioners submitted that the accused had promised to get job for the petitioners and collected huge amounts from them and took them to Howrah in Calcutta on 28.03.2015; they were kept in a separate house at Gopal MOP Village near Durgapur, along with 25 other persons; their photographs and identity cards were collected and they were furnished with appointment orders; the petitioners

collected the fake appointment orders and reported before the Eastern Railway office at the place of appointment mentioned in the appointment orders; only then, did the petitioners know that the appointment orders were fake ones. Therefore, the learned counsel for the petitioners contended that all the petitioners who hail from the lowest strata of the society were taken from Tamil Nadu to Calcutta, where, they were furnished with fake appointment orders after collecting Rs.2 lakhs from each of them.

6. Deepan and Srikanthan have filed their counter affidavit contending that they are innocent and they were arrested and released on bail and therefore, the bail that was granted to them should not be cancelled in the absence of any supervening circumstances.

7. Srikanthan has taken a specific plea that he was also a victim of the fraud that was played by Deepan, Palani and D.K. Yadav and that he was used by them as he was conversant in Hindi. He also submitted that Deepan and Palani are Railway employees and since they cannot involve themselves directly, they acted through D.K. Yadav and Kannan.

8. Deepan has filed a counter affidavit, wherein, he has stated that after having been released on bail, he has complied with the conditions imposed by the Sessions Court, Tiruvannamalai and that he has not misused the liberty granted to him.

9. This Court gave its anxious consideration to the rival submissions.

10. It is trite law that the parameters for grant of bail are different from the ones relating to cancellation of bail that has already been granted. In **Prasanta Kumar Sarkar vs. Ashis Chatterjee and another [(2010) 14 SCC 496]**, the Supreme Court has re-stated the parameters for grant of bail. In **Prakash Kadam and others vs. Ramprasad Vishwanath Gupta and another [(2011) 6 SCC 189]**, the Supreme Court has held that it is not necessary that there should be supervening circumstances to cancel bail and that bail can be cancelled by the superior Court, if it is found that the very grant of it suffers from serious infirmity. Bearing these principles in mind, this Court analysed the facts and circumstances of the case at hand.

11. This Court perused the fake appointment orders that were furnished to the petitioners/victims by the accused. A perusal of the same shows the ingenuity of the accused in fabricating appointment orders of Eastern Railway. Admittedly, the petitioners herein hail from rural India and are from poor background. They have all been taken to Calcutta by Deepan, Kannan and D.K. Yadav and were lodged in a house in Howrah.

12. It is alleged by the petitioners that the accused collected Rs.2 lakhs from each of the victims on the ground that the said amount has to be paid towards Security Deposit, which the innocent victims believed and parted with and that some of the co-accused are still in abscondence. In such view of the matter, this Court is of the opinion

that the Sessions Court, Tiruvannamalai, should not have granted bail to Deepan and Srikanthan within 20 days of their arrest. Thus, this Court has no hesitation in holding that the orders granting bail to Deepan and Srikanthan are *per se* perverse warranting interference by this Court.

In the result, these petitions are allowed and the orders dated 07.10.2015 and 29.10.2015 passed by the Sessions Judge, Tiruvannamalai in Crl.M.P. Nos.3759 and 4096 of 2015 granting bail to Srikanthan, S/o Natesan and Deepan, S/o Govindasamy respectively, are set aside and it is open to the police to apprehend Srikanthan and Deepan.

04.10.2017

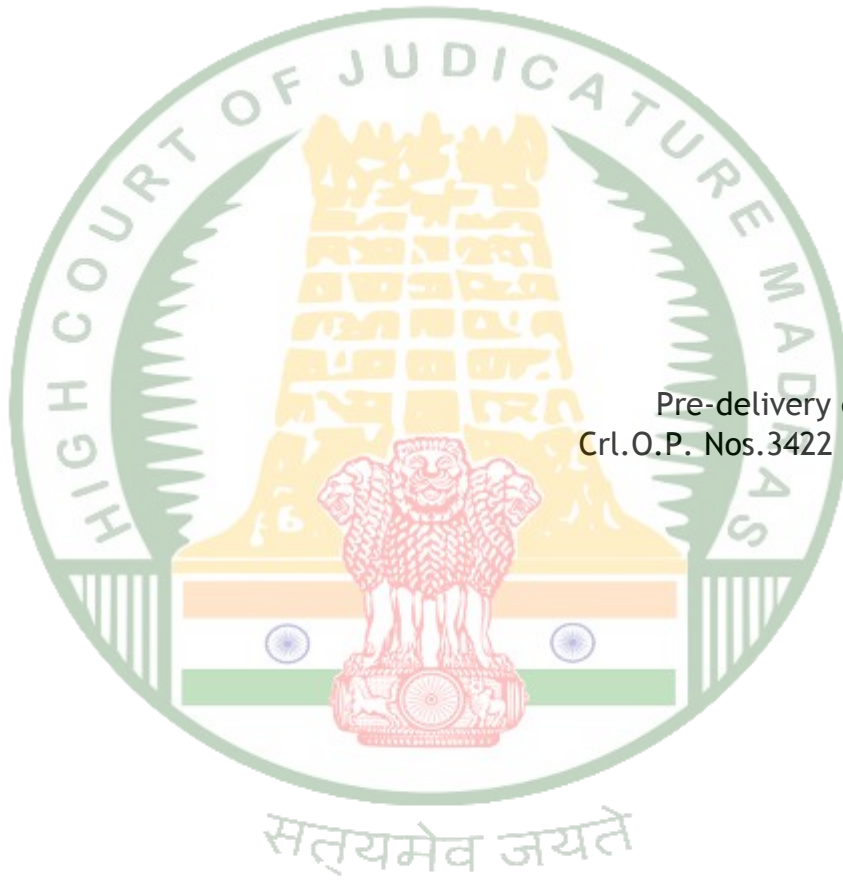
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To

- 1 The Inspector of Police
District Crime Branch Police Station
- 2 The Chief Working Manager
Carriage Repair Shop
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- 3 The Divisional Railway Manager
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- 5 The Public Prosecutor
Madras High Court, Chennai 600 104

P.N. PRAKASH, J.

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Pre-delivery common order in
Crl.O.P. Nos.3422 and 3423 of 2016

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