

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2018

CORAM:

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

Crl.O.P. No.15370 of 2018

H.M.I. Jaffar Sadiq

Petitioner

vs.

1 Thirugnanasambantham

2 The State represented by
the Inspector of Police
M-1, Madhavaram Police Station
(Cr. No.1636 of 2015)

Respondents

Criminal Original Petition filed under Section 439(2) Cr.P.C. seeking to cancel the anticipatory bail granted to the accused in Crl.O.P. No.225 of 2016 by order dated 28.07.2017.

For petitioner : Mr. M. Guruprasad

For R2 : Mr. C. Raghavan
Govt. Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been preferred seeking to cancel the anticipatory bail granted to the accused in Crl.O.P. No.225 of 2016 by order dated 28.07.2017.

2 In Crl.O.P. No.225 of 2016, this Court granted anticipatory bail to Thirugnanasambantham on 28.07.2017 and the said order is extracted below:

"The petitioners, who apprehend arrest at the hands of the respondent police for alleged offences punishable u/s 420 and 406 IPC in Cr.No.1636 of 2015, seek anticipatory bail.

2 Today, when the matter was taken up for hearing, it was reported that the second petitioner had died. Hence, this petition stands closed in respect of the second petitioner.

3 On a reading of the FIR, it is seen that the de facto complainant has alleged that they are into

construction business and they wanted red sand for which they approached one Harjit Suppliers owned by the petitioners and that the petitioners promised supply of red sand and had taken Rs.10 lakhs which the de facto complainant is said to have transferred by RTGS on 14.08.2012. After having received said amount, red sand was not supplied by the petitioners. Hence, on the complaint given by the de facto complainant, FIR has been registered on 04.11.2015.

4 The learned counsel for the first petitioner submitted that the first petitioner is not the owner of Harjit Suppliers and that he had only introduced Harjeet Suppliers to the de facto complainant.

5 Per contra, the learned counsel for the de facto complainant strongly opposed the grant of anticipatory bail by contending that the petitioners had received Rs.10 lakhs on 24.08.2012 by RTGS and have thereafter, not supplied materials.

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

7 In the considered opinion of this Court, the dispute essentially appears to be contractual in nature and in such view of the matter, custodial interrogation of the first petitioner may not be necessary and hence, this Court is inclined to grant anticipatory bail to the first petitioner.

8 Accordingly, the first petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the Judicial Magistrate, Thiruvotriyur, on condition that the first petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each, with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

[a] the first petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the first petitioner shall report before the

respondent police for interrogation daily at 10.30 a.m. for a period of four weeks and thereafter, as and when required.

[c] the first petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the first petitioner shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the first petitioner in accordance with law as if the conditions have been imposed and the first petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

[f] If the first petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC."

3 Jaffar Sadiq, the de facto complainant in Cr. No.1636 of 2015 has preferred the present application for cancellation of the aforesaid anticipatory bail granted by this Court on the ground that Thirugnanasambantham had neither deposited Rs.1 lakh nor had he also surrendered before the Judicial Magistrate, Thiruvotriyur, as directed by this Court.

4 On 25.06.2018, this Court passed the following order in this application.

"Mr. C. Raghavan, learned Government Advocate, takes notice for R2. Notice to R1 returnable by 09.07.2018. Private notice is also permitted. R2 is directed to produce R1 before this Court on 09.07.2018."

5 Today, Mr. D. John, S.S.I., M-1, Madhavaram Police Station is present before this Court and he has submitted a report to the effect that Thirugnanasambantham had not surrendered before the Judicial Magistrate, Thiruvotriyur nor had he deposited Rs.1 lakh, as directed by this Court and that he has left for America, owing to which, the police were not able to serve notice on Thirugnanasambantham in this application seeking cancellation of anticipatory bail granted to him.

6 In view of the fact that Thirugnanasambantham had not

complied with the earlier order dated 28.07.2017 in CrI.O.P. No.225 of 2016 and that he has left for America, the anticipatory bail granted to Thirugnanasambantham in CrI.O.P. No.225 of 2016 is hereby cancelled.

In fine, this Criminal Original Petition stands allowed.

Sd/-
Assistant Registrar(CS II)

//True copy//

Sub Assistant Registrar

cad

To

1 The Inspector of Police
M-1, Madhavaram Police Station
Chennai

2 The Public Prosecutor
High Court of Madras
Chennai 600 104

3.The Judicial Magistrate,
Thiruvotriyur.

+1cc to Mr.M.Guruprasad, Advocate SR.No.44677

CrI.O.P. No.15370 of 2018

NRL (CO)
GN(18/07/2018)

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