

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2019

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P. No.25331 of 2018

D.Singaram

... Petitioner

Vs.

1.R.Kandavel

2.State represented by
The Inspector of Police,
Central Crime Branch,
Salem Taluk,
Salem District,
(Crime No.28 of 2007).

... Respondents

Prayer: Criminal Original Petition filed under Section 439(2) Cr.P.C. to cancel the anticipatory bail granted in Crl.O.P.No.12424 of 2018 dated 21.06.2018 passed by this Court.

For Petitioner : Mr.K.Kalaikovan

For R1 : Mr.V.Vijayabaskar for
M/s. Law Vision.

For R2 : Ms.M.Prabhavathi

O R D E R

This petition has been filed to cancel the anticipatory bail granted to the respondent by this Court in Crl.O.P.No.12424 of 2018 by an order dated 21.06.2018.

2.The learned counsel appearing for the petitioner/intervener would submit that this petition is filed on the ground that the accused persons while filing the anticipatory bail petition had produced the bogus address as Door No.202, 12th A Cross street, Dhasara Halli, Bangalore - 24. But his original address is No.38, Sri Laxmi Rhythm Apartments, Kampapura, Hembbal, Bangalore, Karnataka State. Therefore, he furnished the bogus address and obtained anticipatory bail.

Further he submitted that while granting anticipatory bail to the first respondent, the petitioner/defacto complainant had filed a intervening petition stating that the first respondent was not residing in the said address, therefore this Court subsequently directed the learned Judicial Magistrate to verify the address while accepting the sureties. Even then, the first respondent furnished the false address and executed the sureties. Therefore, he sought for cancellation of the anticipatory bail granted to the first respondent.

3.The learned counsel for the first respondent would submit that the first respondent never produced any bogus address at the time of granting of anticipatory bail. He was residing at the above mentioned address and his original address is No.38, Sri Laxmi Rhythm Apartments, Kampapura, Hembbal, Bangalore, Karnataka State. Further he submitted that while executing sureties, the learned Judicial Magistrate and the respondent police have verified the genuinity of the address proof submitted by the first respondent and thereafter only he had let on bail by the learned Judicial Magistrate. Further he submitted that now the second respondent police completed the investigation and also filed the charge sheet. It has taken cognizance by the learned Judicial Magistrate No.III, Salem in C.C.No.41 of 2018. The learned Judicial Magistrate No.III, Salem also commencing trial and hence, he sought for dismissal of the petition.

4.The learned Additional Public Prosecutor appearing for the second respondent would submit that while granting anticipatory bail to the first respondent was residing at Door No.202, 12th A Cross street, Dhasara Halli, Bangalore - 24 and his original address is No.38, Sri Laxmi Rhythm Apartments, Kampapura, Hembbal, Bangalore, Karnataka State. The second respondent also completed the investigation and filed the final report in C.C.No.41 of 2018 before the learned Judicial Magistrate No.III, Salem and the matter is posted on 28.01.2019 for framing of charges.

5.Heard Mr.K.Kalaikovan, learned counsel for the petitioner and Mr.N.Vijayabaskar for M/s. Law Vision, learned counsel for the first respondent and Mrs.M.Prabhavathi, learned Additional Public Prosecutor appearing for the second respondent/police.

6.This Court granted anticipatory bail to the first respondent by an order dated 21.06.2018 in CrI.O.P.No.12424 of 2018 and imposed the following condition:

"7.Accordingly, the 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 learned Judicial Magistrate-III, Salem, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the respondent police or to the police officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(i) if the petitioner fails to surrender before the concerned Magistrate within a period of 15 days from the date of receipt of a copy of this order, this order shall stand automatically cancelled.

(ii) the petitioner shall appear before the learned Judicial Magistrate-III, Salem daily at 10.30 a.m. Until further orders.

(iii) the petitioner shall furnish the proof of residence and the learned Magistrate concerned shall accept the sureties after verification of residential proof.

(iv) the petitioner shall not amper with evidence or witness either during investigation or trial.

(v) the 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 petitioner in accordance with law as if the conditions have been imposed and the 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 accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC."

7.It is seen that the first respondent complied with the condition. The learned Judicial Magistrate-III, Salem verified the address proof and other records produced by the first respondent while excuting sureties.

8.Further it is also seen that the second respondent police completed the investigation and also filed the charge sheet and the same was taken cognizance by the learned Judicial Magistrate-III, Salem in C.C.No.41 of 2018 and it the above said case was posted on 28.01.2019 for framing of charges.

Considering the facts and circumstances of the case, this Court is not inclined to cancel the anticipatory bail granted to the first respondent on 21.06.2018.

9. Accordingly, this criminal original petition is dismissed. However, the first respondent is directed to appear before the trial Court regularly without fail.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

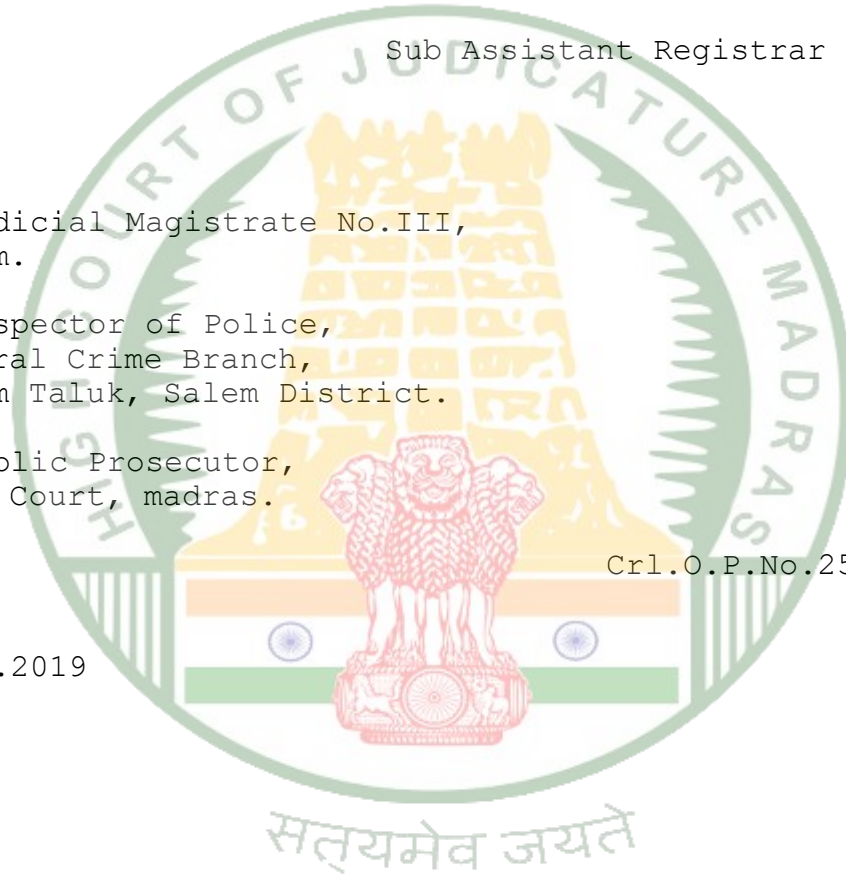
ah

To

1. The Judicial Magistrate No.III,
Salem.
2. The Inspector of Police,
Central Crime Branch,
Salem Taluk, Salem District.
3. The Public Prosecutor,
High Court, madras.

Cr1.O.P.No.25331 of 2018

AD(CO)
CSL/14.03.2019



WEB COPY