

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2019

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P. No.25327 of 2018

D.Singaram

... Petitioner

Vs.

1.N.Gunasekaran

2.R.Thanam

3.Umakanga

4.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 CrI.O.P.No.12421 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 Nos.1 to 3 by this Court in CrI.O.P.No.12421 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 all the respondent Nos.1 to 3 are residing in various

places. Therefore, they furnished the bogus address and obtained anticipatory bail. Further he submitted that while granting anticipatory bail to the respondent Nos.1 to 3, the petitioner/defacto complainant had filed a intervening petition stating that the respondent Nos.1 to 3 were 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 respondent Nos.1 to 3 furnished the false address and executed the sureties. Therefore, he sought for cancellation of the anticipatory bail granted to the respondent Nos.1 to 3.

3.The learned counsel for the respondent Nos.1 to 3 would submit that the respondent Nos.1 to 3 never produced any bogus address at the time of granting of anticipatory bail. They were residing at the above mentioned address and now shifted their residences to various places. 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 respondent Nos.1 to 3 and thereafter only they had let on bail by the learned Judicial Magistrate. Further he submitted that now the fourth 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 fourth respondent would submit that while granting anticipatory bail to the respondent Nos.1 to 3 were residing at Door No.202, 12th A Cross street, Dhasara Halli, Bangalore - 24 and now the respondent Nos.1 to 3 shifted to various places. The fourth 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. सत्यमेव जयते

5.Heard Mr.K.Kalaikovan, learned counsel for the petitioner and Mr.N.Vijayabaskar for M/s. Law Vision, learned counsel for the respondent Nos.1 to 3 and Mrs.M.Prabhavathi, learned Additional Public Prosecutor appearing for the fourth respondent/police.

6.This Court granted anticipatory bail to the respondent Nos.1 to 3 by an order dated 21.06.2018 in CrI.O.P.No.12421 of 2018 and imposed the following condition:

"7.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on

their 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 petitioners 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 petitioners shall appear before the learned Judicial Magistrate-III, Salem daily at 10.30 a.m. Until further orders.

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

(iv) the petitioners shall not amper with evidence or witness either during ivnestigation or trial.

(v) the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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 respondent Nos.1 to 3 complied with the condition. The learned Judicial Magistrate-III, Salem

verified the address proof and other records produced by the respondent Nos.1 to 3 while executing sureties.

8. Further it is also seen that the fourth 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 in 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 respondent Nos.1 to 3 on 21.06.2018.

9. Accordingly, this criminal original petition is dismissed. However, the respondent Nos.1 to 3 is directed to appear before the trial Court regularly without fail.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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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.

AD(CO)
CSL/14.03.2019

सत्यमेव जयते

Cr1.O.P.No.25327 of 2018

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