

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2020

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.OP.No.3815 of 2020

R. Prabakaran ... Petitioner/Defacto complainant

Vs.

1. Ramesh
2. Karthi Kumar
3. Vijayakumar
4. Raji
5. K. Sushma
6. Usha
7. State Rep by

Inspector of Police,
Pallapatty Police Station,
Salem District
Cr.No.317 of 2019.

... Respondents/Accused 1 to 6

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C.,
to cancel the anticipatory bail granted in CrI.OP.No.23415 of 2019 dated
30.08.2019 in Cr.No.317 of 2019.

For Petitioner : Mr.R. Chakkaravarthy

For Respondents : Mr.S.Karthikeyan (for R7)
Additional Public Prosecutor
No appearance (for Respondents 1 to 6)

ORDER

This Criminal Original Petition has been filed to cancel the anticipatory bail granted in CrI.OP.No.23415 of 2019 dated 30.08.2019 in Cr.No.317 of 2019.

2. The learned counsel for the petitioner has submitted that the respondents 1 to 6 have cheated the petitioners to the tune of Rs.57,10,000/- on the false assurance for arrangement of VISA for 52 persons to send them to Malaysia for job. Thereafter, they did not take any step to provide any VISA to the victims and also they refused to return back their amount which were given to the accused persons. Then, the respondents 1 to 6 approached this court by way of anticipatory bail in CrI.OP.No.23415 of 2019. This court by order dated 13.08.2019 was pleased to grant anticipatory bail to all the respondents 1 to 6 herein on condition that the respondents 1 and 2 shall deposit a sum of Rs.20,00,000/- jointly within a period of four weeks to the credit of Cr.No.317 of 2019. He further submitted that the respondents 1 to 6, after

execution of sureties, the respondents 1 and 2 failed to deposit a sum of Rs.20,00,000/- as directed by this court. Therefore, they did not comply all the conditions imposed by this court and sought for cancellation of anticipatory bail granted to them.

3. The learned Additional Public Prosecutor appearing for the 7th respondent has submitted that on the complaint lodged by the petitioner, an FIR in Cr.No.317 of 2019 has been registered as against the sixth accused, in which, the respondents 1 to 6 are arrayed as A1 to A6 for the offence punishable under Section 420 IPC and Sections 20 and 24 of Immigration Act and Sections 10 and 24 of Immigration Act, 1983. While granting anticipatory bail to them, this court has imposed conditions that the respondents 1 and 2 shall deposit a sum of Rs.20,00,000/- to the credit of Cr.No.317 of 2019. Though they executed sureties and comply other conditions, the accused 1 and 2 namely respondents 1 and 2, failed to comply the conditions imposed by this court. Though notice was served to the respondents 1 to 6 and their names were printed in the cause-list, no one appeared on behalf of the respondents 1 to

6 before this court by person or through pleader.

4. Respondents 1 to 6 are accused in Cr.No.317 of 2019 and registered a case for the offence punishable under Sections 420 of IPC and Sections 4 and 24 of Immigration Act, 1983, on the complaint lodged by the petitioner herein. According to the petitioner, the respondents 1 to 6 approached the petitioner and had given promise that they will take VISA to the petitioner for their respective employment at Malaysia.

5. A1 and A2 promised to the petitioner and on such promise, petitioner and their sub agent has collected a sum of Rs.1,50,000/- and Rs.1,40,000/- respectively, so far a sum of Rs.57,10,000/- has been paid by A1 and A2 collected from 52 victims for getting VISA at Malaysia. After collecting the said amount, A1 and A2 did not arrange any job and also failed to return the said amount collected by them. While being so, the respondents 1 to 6 have approached this court for anticipatory bail in CrI.OP.No.23415 of 2019 and this court by order dated 30.08.2019, granted anticipatory bail to the respondents 1 to 6 on the following

conditions:

"6. Considering the above facts and circumstances, this court is inclined to grant anticipatory bail for the following conditions:

Accordingly, the petitioners 1 and 2 shall deposit the sum of Rs.20,00,000/-(Rupees Twenty Lakhs only) jointly within the period of four weeks to the credit of Crime No.317 of 2019 and on such deposit, the petitioners are ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate No.II, Salem, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/-(Rupees Ten Thousand only) with two sureties 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, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners 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 petitioners shall report before the respondent police daily at 10.30 a.m., for a period of four weeks and

thereafter as and when required for interrogation.

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

[d] 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 absconds, a fresh FIR can be registered under Section 229A IPC."

6. Accordingly, the respondents 1 to 6 have executed sureties and respondents 1 and 2 have failed to deposit a sum of Rs.20,00,000/- to the credit of Cr.No.317 of 2019 on the file of the 7th respondent herein. It is also endorsed by the learned counsel for the Additional Public Prosecutor that in so far as the said conditions, the first and second accused have failed to comply and in so far other conditions are concerned, they have

complied.

7. Considering the above submission, now even after receipt of notice, the respondents 1 to 6 herein did not appear before this court by person or through pleader. However, this court directs the respondents 1 and 2 alone to deposit a sum of Rs.20,00,000/- to the credit of Cr.No.317 of 2019 within period of four weeks. Therefore, the anticipatory bail granted to the respondents 1 and 2 alone is liable to be cancelled. Accordingly, this petition is allowed in part and cancelled the anticipatory bail granted to the respondents 1 and 2. So far as the respondents 3 to 6 are concerned, this petition is dismissed. The 7th respondent is directed to proceed in accordance with law in respect of A1 and A2.

02.09.2020

Index : Yes / No
Speaking / Non-speaking Order
gv

G.K.ILANTHIRAIYAN, J.

To

1.The Inspector of Police,
Pallapatty Police Station,
Salem District
Cr.No.317 of 2019.

2. The Additional Public Prosecutor,
High Court, Madras.



CRL.OP.No.3815 of 2020

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