

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Wednesday, the Eleventh day of August Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION Nos.12858 & 12925 of 2021

1 R.SATHICK BASHA [PETITIONER / ACCUSED
2 R.NASIR BASHA IN CRL.OP.NO.12858/2021]
3 HARI PRASAD
4 RAMESH @ BALOON RAMESH

1 HARI PRASAD [PETITIONER / ACCUSED
2 RAMESH @ BALOON RAMESH IN CRL.OP.NO.12925/2021]

Vs

STATE REP. BY [RESPONDENT IN
INSPECTOR OF POLICE, BOTH THE PETITIONS]
M-4, REDHILLS POLICE STATION,
CHENNAI-52
CR.NO.383/2021 respectively

For Petitioner : M/S.K.MANIKANDAN Advocate (IN CRL.OP.NO.12858/21)
M/S.S.SURESH Advocate (IN CRL.OP.NO.12925/21)

For Respondent : Mr.C.E.Pratap Government Advocate (Crl. Side)
(IN BOTH THE PETITIONS)

PETITION FOR BAIL 439 Cr.P.C.

ORDER : The Court Made the following order :-

The present petitions are listed under the head "For Clarification" at the instance of the Court.

2. While Crl. O.P. Nos.12858/21 has been filed by the petitioners, who are arrayed as A-1 to A-4 in Crime No.383/2021 through one Advocate Mr.Manikandan, Crl. O.P. No.12925/21 has been filed by the petitioners, who are A-3 and A-4 in the same crime number through one Advocate Mr.Suresh. Both the petitions have been filed seeking enlargement of the petitioners on bail.

3. Initially, Crl. O.P. No.10334/21 was filed by the very same petitioners, who have filed Crl. O.P. No.12858/21 through the Advocate Manikandan, and this Court, after hearing the learned

Government Advocate (Crl. Side), who submitted that there are two previous cases against the petitioners for similar offences, rejected the prayer of the petitioners for bail and dismissed Crl. O.P. No.10334/2021, vide order dated 14.6.21.

4. Thereafter, through the Advocate, Mr.Suresh, the petitioners 1 and 2 in Crl. O.P. No.10334/21, who are A-1 and A-2, suppressing the factum of the filing of Crl. O.P. No.10334/21, had filed Crl. O.P. No.11981/21 and when the matter was taken up on 12.7.21, on behalf of the respondent, it was submitted that there was no previous case against the petitioners and based on the said stand, this Court had granted bail to the petitioners 1 and 2 on certain conditions in Crl. O.P. No.11981/21.

5. Thereafter, the above two petitions in Crl. O.P. Nos.12858 and 12925/21 have been filed by the Advocates Mr.Manikandan and Mr.Suresh on behalf of the respective petitioners seeking enlargement on bail. Incidentally, it is averred by the petitioners in Crl. O.P. No.12925/21 that they be also granted similar relief as granted to the petitioners in Crl. O.P. No.11981/21.

6. The matters were listed on 29.7.21 under two different item numbers and this Court, vide order dated 29.7.21, after hearing the learned counsel on either side and also the learned Government Advocate (Crl. Side), who had represented that there were previous cases pending against the petitioners in both the petitions, dismissed both the petitions. However, it has not been brought to the notice of this Court by the learned Government Advocate (Crl. Side) that the petitioners 3 and 4 in both the petitions are one and the same and it relates to the same crime number and that petitioners 1 and 2 in Crl. O.P. No.12858/21 had already been granted bail by this Court vide order dated 12.7.21.

7. However, while the order was about to be typed, the above mischief committed by the petitioners was noticed by the concerned Personal Assistant, who had taken the said order and the same was placed before me, which resulted in the listing of the above petitions today under the head "For Clarification".

8. When the matter is taken up today, it is the stand of the respective learned counsel, who had filed the different petition that they were not aware of the other person filing similar petition and that the petitioners had not informed the concerned counsel about the matter being also entrusted to more than one advocate. This clearly shows that the petitioners, through different advocates, are trying to get favourable orders one way or the other.

9. Be that as it may. A conspectus analysis of the entire scenario as unfolded above clearly reveals that the Court has been misled into believing that there was no previous case against the

petitioners in Crl. O.P. No.11981/21 which led to grant of bail by order dated 12.7.21, when in fact for the very same petitioners, in view of the fact that there were two previous cases pending against them, this Court had, on 14.6.21 itself, dismissed the application for bail with regard to all the four petitioners. It is to be pointed out that the Government Advocate (Crl. Side) had not been vigilant enough in furnishing particulars to this Court about the previous cases pending against the petitioners, which has led this Court to grant bail to petitioners 1 and 2 in Crl. O.P. No.11981/21, when in fact there were previous cases pending against the petitioners in the said petition.

10. In view of the fact that the petitioners in the respective Crl. O.P. Nos.12858 and 12925/21 having suppressed material particulars while filing the said criminal original petitions relating to the dismissal of the earlier petition filed by them and also the further fact that while filing Crl. O.P. No.11981/21, which resulted in grant of bail to the petitioners 1 and 2 therein, who are the petitioners 1 and 2 in Crl. O.P. Nos.10334 and 12858/21, the factum of rejection of bail for the said petitioners 1 and 2 having not been pleaded nor brought to the knowledge of this Court when the petition was heard and orders passed, this clearly shows the mala fide intent of the petitioners in obtaining orders not only behind the back of dismissal of the earlier petition, but also by suppressing material facts, which is in detriment to their case and stares at their face.

11. In such view of the matter, while this Court dismisses Crl. O.P. Nos.12858 and 12925/21, in view of the fact that the suppression of material fact had resulted in grant of bail in Crl. O.P. No.11981/21, also takes on board Crl. O.P. No.11981/21 and is inclined to cancel the bail granted to the petitioners in Crl. O.P. No.11981/21.

12. For the reasons aforesaid, while the bail granted in Crl. O.P. Nos.11981/21 is cancelled and the said petition is dismissed, Crl.O.P. Nos.12858 and 12925 of 2021 also stand dismissed.

-sd/-

11/08/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE OFFICER INCHARGE,
SUB JAIL, PONNERI

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL,
CHENNAI

3 INSPECTOR OF POLICE,
M-4, RED HILLS POLICE STATION,
CHENNAI-52.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.K.MANIKANDAN Advocate on payment of necessary charges

CC to M/S.S.SURESH Advocate on payment of necessary charges

CRL OP.Nos.12858 & 12925 of 2021

Date :11/08/2021

RVR 18/08/2021