



WEB COPY



Crl.O.P.No.15147 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2021

Coram

**THE HONOURABLE MR. JUSTICE P.N.PRAKASH
and
THE HONOURABLE MRS. JUSTICE S.SRIMATHY**

Crl.O.P.No.15147 of 2019

S.J.Viswanathan
S/o.Late K.S.Jagannathan
(substituted as per order in
Crl.M.P.No.10302/2021
dated 05.10.2021)

.. Petitioner

Vs.

1.Panneerselvam
S/o.Purushothaman

2.The State represented by
Inspector of Police,
District Crime Branch,
Dharmapuri District.
Crime No.1 of 2018

.. Respondents

Criminal Original Petition filed u/s.439(2) of the Code of Criminal Procedure praying to cancel the anticipatory bail granted to the first respondent by this Court by order dated 22.04.2019 in Crl.O.P.No.10069 of 2019.



WEB COPY



Crl.O.P.No.15147 of 2019

For Petitioner : Mr.A.Ilaya Perumal
For Respondents : No appearance [R1]
Mr.Hasan Mohamed Jinnah
Public Prosecutor
assisted by Mr.R.Muniyapparaj, APP
and Mr.A.Gokulakrishnan, APP [R2]

ORDER

[Order of the Court was made by **P.N.PRAKASH, J**]

This petition has been filed seeking to cancel the anticipatory bail granted to the first respondent by this Court by order dated 22.04.2019 in Crl.O.P.No.10069 of 2019.

2. The facts that are required for deciding this petition for cancellation of anticipatory bail are as under:

2.1. One K.S.Jagannathan was the owner of a land measuring 25 acres in Survey No.867/2, Adhiyamankottai village, Dharmapuri District. One Nagaraj [A1], a local politician, entered into a loan agreement with one Rajendran [A2], under which, Nagaraj [A1] made it appear as if he has



WEB COPY

received a loan around Rs.4,00,000/- for which, he has given the above said property of K.S.Jagannathan as security. The loan agreement dated 05.04.2004 contained an arbitration clause.

2.2. Thereafter, it appears that Nagaraj [A1] and Rajendran [A2], in collusion, appointed one K.Rajaram [A4], Advocate, as arbitrator, based on which, K.Rajaram [A4] passed an award dated 31.10.2014 in a fake arbitration proceedings viz., AR.O.P.No.36 of 2014 directing execution of a sale deed in respect of 8 acres and 16 cents of K.S.Jagannathan's property in favour of Rajendran [A2].

2.3. While so, Rajendran [A2], who had obtained the fake arbitration award, presented the arbitration award in the District Court, Dharmapuri, for execution against Nagaraj [A1] in R.E.P.No.36 of 2016, in which K.S.Jagannathan was not shown as a party. Nagaraj [A1] remained *ex parte* in R.E.P.No.36 of 2016 and an *ex parte* order was passed by the District Judge, Dharmapuri, directing the execution of a sale deed in favour of



Rajendran [A2] in respect of K.S.Jagannathan's property. Accordingly, the impugned sale deed dated 02.05.2017 in Doc.No.1075 of 2017 came to be registered as if the property has been sold to Rajendran [A2]. Challenging the registration of the sale deed dated 02.05.2017 in Doc.No.1075 of 2017, K.S.Jagannathan has filed the present Writ Petition.

2.4. On coming to know about all this, K.S.Jagannathan approached the police and lodged a complaint, based on which, a case in DCB P.S.Crime No.1 of 2018 was registered and investigation was taken over. The police arrested Nagaraj [A1], Rajendran [A2] and Advocate Rajaram [A4] etc.

2.5. During the course of police investigation, startling facts came to light and it was found that A.R.Chandran [A8] was running an Arbitration Centre in the name of 'Asia - Pacific Arbitration Centre' with Government of India Emblem in Dharmapuri District, where Paneerselvam [A7] acted as bailiff. A.R.Chandran [A8] had with him two accused Kumar [A9] and Raja [A11] as the personal gunmen and they were given air gun to give credibility



Crl.O.P.No.15147 of 2019

to their work. The police arrested A.R.Chandran [A8], Kumar [A9] and Raja [A11].

2.6. Rajendran [A2] and Paneerselvam [A7] filed a petition for anticipatory bail in Crl.O.P.No.12897 of 2018, which was dismissed on merits by a learned single Judge of this Court on 03.05.2018. Thereafter, Rajendran [A2] and Paneerselvam [A7] filed a second anticipatory bail petition in Crl.O.P.No.13901 of 2018. During the hearing of the anticipatory bail petition before a learned single Judge, Paneerselvam [A7] withdrew the anticipatory bail petition. The learned single Judge dismissed the anticipatory bail petition of Rajendran [A2].

2.7. In the mean while, K.S.Jagananathan filed Crl.O.P.No.15781 of 2018 for transfer of investigation in DCB P.S.Crime No.1 of 2018, which was referred to a Division Bench as the accused were running a parallel Court system in Dharmapuri district. The Division Bench, by order dated 27.03.2019, issued the following directions :



WEB COPY

'7. It is made clear that if any applications for bail/anticipatory bail/other proceedings relating to Crime No.1/2018 registered by the Inspector of Police, District Crime Branch, Dharmapuri, the same shall be filed before this Bench, which is dealing with this matter by way of "Specially ordered Case".'

Thus, a reading of the above order of the Division Bench clearly shows that all anticipatory bail petitions arising from Crime No.1 of 2018 should be listed before the Division Bench and not before the single Judge.

2.8. Suppressing this and filing of the earlier anticipatory bail petitions, Paneerselvam [A7] filed a fresh anticipatory bail petition in Crl.O.P.No.10069 of 2019 before a learned single Judge and obtained orders favourable to him. For setting aside it, K.S.Jagannathan has filed the present petition seeking cancellation of anticipatory bail.

3. During the pendency of this petition, K.S.Jagannathan died and therefore, his son S.J.Viswanathan has been impleaded as the petitioner. Notice was ordered on Paneerselvam [A7]. Mr.P.Tamilvel, Advocate, who appeared for Paneerselvam [A7] in Crl.O.P.No.10069 of 2019 and obtained



anticipatory bail for him, undertook to file vakalath for Paneerselvam [A7].

On this score, the matter was adjourned from time to time. Thus, it is clear that notice has been served on Paneerselvam [A7] and fearing serious consequences, his counsel Mr.P.Tamilvel, is not appearing before this Court.

4. Heard Mr.A.Ilaya Perumal, learned counsel for the petitioner and Mr.Hasan Mohamed Jinnah, learned Public Prosecutor appearing for the State. We have perused the entire records.

5. It is clear that Paneerselvam's [A7's] earlier anticipatory bail petition in Crl.O.P.No.12897 of 2018 has been dismissed by this Court on merits on 03.05.2018. Despite that, he filed a second anticipatory bail petition in Crl.O.P.No.13901 of 2018, which he withdrew on 25.07.2018, probably because the learned single Judge was not inclined to grant relief. Thereafter, a Division Bench of this Court in Crl.O.P.No.15781 of 2018 has issued a clear direction that bail and anticipatory bail petitions/other proceedings relating to Crime No.1 of 2018 should have to be posted before



Crl.O.P.No.15147 of 2019

the Division Bench. Despite which, Paneerselvam [A7], suppressing all the earlier petitions, has filed Crl.O.P.No.10069 of 2019 before a learned single Judge, in which, anticipatory bail has been granted to him. Thus, the order in Crl.O.P.No.10069 of 2019 has been obtained by rank suppression and is founded on fraud.

On this ground, this Criminal Original Petition is allowed and the anticipatory bail granted to Paneerselvam [A7] in Crl.O.P.No.10069 of 2019 on 22.04.2019 is hereby cancelled. It is open to the police to take Paneerselvam [A7] into custody, if they require for the purpose of investigation.

[P.N.P., J] [S.S.Y., J]
02.11.2021

Index: Yes/No
gm

To

8/10



CrI.O.P.No.15147 of 2019

WEB COPY

1. The Inspector of Police,
District Crime Branch,
Dharmapuri District.
2. The Public Prosecutor,
High Court, Madras.

P.N.PRAKASH, J
and



WEB COPY



Crl.O.P.No.15147 of 2019

S.SRIMATHY, J

gm

Crl.O.P.No.15147 of 2019

02.11.2021