

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 01.10.2020
PRONOUNCED ON : 03.03.2021

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.Nos.28465 & 28466 of 2014
and
Crl.O.P.Nos.3376 of 2015

- 1.The State Rep.by
The Inspector of Police,
Thiruvottriyur Police Station,
Chennai
(Crime No.1024/2014) ...Petitioner in Crl.OP.Nos.28465
and 28466 of 2014
- 2.Rani (alias) Esther Rani ...Petitioner in Crl.OP.3376/2015
- Vs.
- 1.Sadasivam ...Respondent / A1 in
Crl.OP.No.28465/2014
- 2.Rani (alias) Esther Rani ...Respondent/A3 in
Crl.OP.No.28466/2014
- 3.State Rep.by
The Inspector of Police,
H.8.Thiruvottriyur Police Station,
Thiruvottriyur, Chennai ...Respondent in
Crl.OP.3376/2015

PRAYER IN Crl.O.P.No.28465 of 2014: Criminal Original Petition is filed under Section 439(2) of the Code of Criminal Procedure, to cancel the bail granted to the respondent / accused (A1) by the Principal Sessions Judge, Thiruvallur in Crl.M.P.No.3623 of 2014, dated 25.09.2014.

PRAYER IN Crl.O.P.No.28466 of 2014: Criminal Original Petition is filed under Section 439(2) of the Code of Criminal Procedure, to cancel the bail granted to the respondent / accused (A3) by the Principal Sessions Judge, Thiruvallur in Crl.M.P.No.3573 of 2014, dated 25.09.2014.

PRAYER IN Crl.O.P.No.3376 of 2015: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to relax the condition imposed by the Principal Judge at Thiruvallur in Crl.M.P.No.4608 of 2014 by its order dated 25.09.2014 ordering the petitioner to appear before the Judicial Magistrate No.1, Vellore, daily at 10.30 a.m., from the date of her release.

For Petitioner in : Mr.K.Prabakar
(Crl.O.P.Nos.28465 & Addl.Public Prosecutor
28465/2014 and for
Respondent in
(Crl.O.P.No.3376/2015)

For Respondent in : Mr.R.C.Paul Kanakaraj
(Crl.O.P.Nos.28465 & Addl.Public Prosecutor
28465/2014 and for
Petitioner in
(Crl.O.P.No.3376/2015)

COMMON ORDER

This Criminal Original Petition in Crl.O.P.No.28465 of 2014 has been filed to cancel the bail granted to the respondent / Accused No.1, by the learned Principal Sessions Judge, Thiruvallur in Crl.M.P.No.3623 of 2014, dated 25.09.2014.

2. This Criminal Original Petition in Crl.O.P.No.28466 of 2014 has been filed to cancel the bail granted to the respondent /A3 by the Principal Sessions Judge, Thiruvallur in Crl.M.P.No.3573 of 2014, dated 25.09.2014.

3. This Criminal Original Petition in Crl.O.P.No.3376 of 2015 has been filed to relax the condition imposed by the Principal Judge at Thiruvallur in Crl.M.P.No.4608 of 2014 by its order dated 25.09.2014 ordering the petitioner to appear before the Judicial Magistrate No.1, Vellore, daily at 10.30 a.m., from the date of her release.

4. Since all the above three Criminal Original Petitions are interconnected and interrelated to each other, they have all been heard together and this common order is passed.

5. The case of the prosecution in short is that on 30.06.2014, one Selvaraj had given a complaint stating that his son Pushbaraj @ Vikki, aged 27 years, is missing from 28.06.2014. Hence, a case was registered in Crime No.1024 of 2014, under Section "Man Missing". After investigation it revealed that missing man Pushparaj @ Vikki got illegal affair

with one Sujatha / A2. A2 got illegal intimacy with A1. After came to know, the deceased Pushparaj @ Vikki warned A2. Hence, A1 and A2 conspired with A3 / Esthar Rani, who arranged henchmen. They kidnapped and murdered the deceased Pushparaj @ Vikki in Andhra Pradesh and burned.

6. The learned Additional Public Prosecutor appearing for the State submitted that the learned Principal Sessions Judge was not right in releasing the accused on bail in view of the nature and gravity of the offence alleged to have been committed by them, the material collected by the Investigating Agency and reasonable apprehension of the witnesses being tampered with by the accused. Further submitted that Accused Rani @ Esther Rani's bail petition in CrI.O.P.No.26103 of 2014 was dismissed by the High Court on 19.09.2014, suppressing the same, bail petition in CrI.O.P.No.3573 of 2014 was filed before the Sessions Court and obtained bail on 25.09.2014. If the bail granted is not cancelled, the accused will tamper the evidence and intimidate the witnesses. Hence, he prayed for cancellation of bail granted to the accused.

7. The learned counsel appearing for the accused submitted that initially bail petition for Rani @ Esther Rani was filed before the Sessions Judge, Thiruvallur in CrI.M.P.No.3327 of 2014 and the same was dismissed on 08.09.2014. Thereafter, CrI.O.P.No.26103 of 2014 was filed before the High Court at the instance of the Pastor of a Church, not aware of the dismissal of CrI.O.P.No.26103 of 2014. The relative of the Rani @ Esther Rani insisted the earlier counsel to file second bail petition before the Sessions Judge. Hence, the 2nd bail petition in CrI.O.P.No.3573 of 2014 filed and bail obtained on 25.09.2014. The non-mentioning of dismissal of the bail petition by the High Court was not mentioned since two individuals, a family friend and a relative had taken independent efforts to obtain bail for Rani @ Esther Rani, this happened due to frustration and agony and the petitioner Rani @ Esther Rani had no knowledge of the same. Further it is admitted that during that period she was in prison. An affidavit setting forth these facts have been filed. The learned Principal Sessions Judge, Thiruvallur was justified in granting bail to the accused and thereby, the liberty of the accused has been safeguarded in accordance with law. The learned counsel undertakes that the accused is ready and to co-operate with the trial. Hence, the learned counsel for the accused prayed for dismissal of the petition filed by the prosecution, for cancellation of bail.

8. Insofar as the petitioner/ A3 is CrI.O.P.No.3376 of 2015 is concerned, the learned counsel for the petitioner submits that while granting bail, the learned Principal Sessions Judge, Thiruvallur, directed A3 to appear before the learned Judicial

Magistrate No.I, Vellore daily at 10.30 a.m., until further orders. As per the direction, A3 complying with the conditions regularly without fail, for the past few months. Thereafter, A3 filed a petition to relax the conditions on the ground that the distance between Chennai and Vellore is more than 350 kms. The trial Court dismissed the said Petition on the ground that cancellation of bail petition is pending before the High Court. Hence, the learned counsel prayed for relaxation of the condition. The petitioner has now furnished her change of residence to VOC Nagar, Chennai.

9. I have heard the learned counsel appearing on either side and perused the materials available on record.

10. Based on the complaint of on perusal of the records, it is seen that the occurrence had happened in the year 2014 in Andhra Pradesh. In this case, investigation has been completed and the charge sheet has been filed before the committal Court in P.R.C.No.7 of 2016. Further, there is no material produced on record by the prosecution to show that the accused will tamper with the evidence of prosecution witness. Unless the prosecution points out certain supervening circumstances, which would establish that the accused have grossly violated the bail conditions, the bail granted to the accused cannot be cancelled. Further, the accused Rani @ Esther Rani explanation in filing second bail application not disclosing earlier dismissal of bail petition by the High Court, is justifiable, as seen from her affidavit. For the forgoing reasons, this Court is not inclined to cancel the bail granted to the accused.

11. In the result, the Petitions in Crl.O.P.Nos.28465 and 28466 of 2014 filed by the prosecution for cancellation of bail granted to the accused stand dismissed and the petition Crl.O.P.Nos.3376 of 2015 filed by the Petitioner / A3, for relaxation of the condition stands allowed. Since the charge sheet has been filed before the committal Court, the accused shall appear before the committal Court and trial Court on all future hearing dates, without fail.

Sd/-
Assistant Registrar(CS VIII)
WEB COPY
//True Copy//

Sub Assistant Registrar

MPK

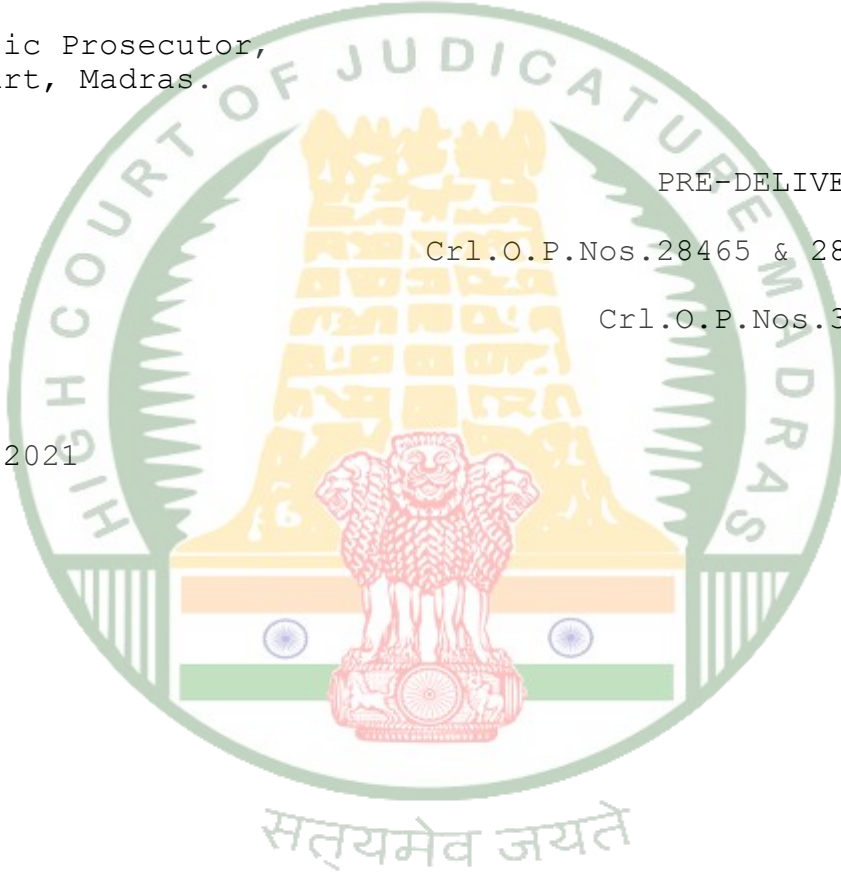
To

- 1.The Principal Sessions Judge,
Thiruvallur.
- 2.The Judicial Magistrate No.1,
Vellore.
- 3.The Inspector of Police,
H.8.Thiruvottriyur Police Station,
Thiruvottriyur, Chennai
- 4.The Public Prosecutor,
High Court, Madras.

PRE-DELIVERY ORDER IN

Crl.O.P.Nos.28465 & 28466 of 2014
and
Crl.O.P.Nos.3376 of 2015

GP(CO)
KKV/18/03/2021



WEB COPY