

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

Reserved on	Pronounced on
14.09.2021 / 15.09.2021	27.09.2021

**CORAM**

**THE HONOURABLE MR. JUSTICE M.DHANDAPANI**

**CRL. O.P. NOS. 5875, 5885, 7951, 8505, 15508, 16151,  
16036, 10689, 16359 & 16911 OF 2021**

**CRL. O.P. NO. 5875 OF 2021**

1. Suresh Raj @ Chinna Suresh

.. Petitioner

**- Vs -**

1. State, rep. By  
Inspector of Police  
Q Branch, Crime Investigation Dept.  
Kancheepuram District.

2. Foreigners Regional Registration  
Officer (FRRO), Bureau of Immigration  
Shastri Bhavan, Annexe Building  
26, Haddows Road, Nungambakkam  
Chennai – 600 006.

(R-2 impleaded suo motu vide order  
of Court dated 5.7.2021)

3. The Secretary  
Ministry of Home Affairs  
Government of India  
New Delhi.

4. The Bureau of Immigration

Ministry of Home Affairs  
Government of India  
New Delhi.

5. Director General of Police  
Government of Tamil Nadu  
Chennai.

.. Respondents

(RR-3 to 5 impleaded suo motu vide order  
of Court dated 16.08.2021)

Crl. O.P. No.5875 of 2021 filed u/s 438 Cr.P.C. praying this Court to enlarge the petitioner on anticipatory bail in the event of his arrested in Crime No.1 of 2020 dated 12.10.2020 u/s 420, 465, 468, 471 IPC and Section 14 A(b) of the Foreigners Act, 1946 and Section 12 (1)(c) of the Passport Act, 1967, on the file of Q Branch, Crime Investigation Department, Kancheepuram.

For Petitioners : Mr. V.Balasubramani in Crl. OP Nos.8505,  
5875 & 5885/2021  
Mr. S.Ashwin Karthikeyan in Crl. OP  
Nos.15508 & 16151/2021  
Mr. R.Raj Prabhu in Crl. OP No.16036/2021  
Mr. M.Kaveriselvam in Crl. OP No.7951/2021  
Mr. Aravind Athithan in Crl. OP No.16359/21  
Mr. A.Selvendran in Crl. OP No.10689/2021  
Mr. S.Manoharan in Crl. OP No.16911/2021

For Respondents : Mr. A.Gopinath, GA (Crl. Side) for R-1 & 5  
Ms. S.P.Arthi, CGSC for R-2 to 4

**COMMON ORDER**

The safety and security of a country lies in the proper implementation of the procedures relating to entry and exit of persons originating from other

countries. The Bureau of Immigration is the watchdog with regard to entry and exit of the persons from other countries and, in turn, the Foreigners Regional Registration Officers (FRRO) and Foreigners Registration Officers (FRO) are the persons, who are required to keep a tab on the persons, who enter the Indian terrain for various reasons by obtaining the requisite permission and their exit is to be monitored so that their illegal stay beyond their permissible stay is avoided.

2. In the present batch of petitions, bail is sought for by the petitioners therein, who are persons of different nationality, viz., Srilankan, Nigerian, Chinese, Iranian and Bangladeshi, who are either overstaying within the Indian territory beyond the validity of their visa or have entered the country illegally without proper immigration/visa document and are staying in the country. The petitioners, due to certain acts, have come to adverse notice of the police, which has resulted in the filing of the respective complaints and subsequent remand of the petitioners on their arrest and production before the concerned Court.

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3. Initially Crl. O.P. No.7951/2021 came up before this Court on 28.04.2021, in which the petitioner, a Nigerian National, is alleged to have come from Nigeria to India on a business visa for the purpose of exporting garments to

Nigeria and an act, within the legal contours, was perpetrated by the petitioner, complaint was registered against the petitioner, thus landing him behind the bars from which he sought relief by enlargement on bail.

4. However, this Court felt that this is not a case in isolation, where, persons of different nationalities, under the guise of business/employment/tourist enter the country and overstay the visa period, without resorting to have their visa extended and that many forms of crimes are perpetrated by such of those individuals, which shake the economic stability, peace and tranquility of the country, this Court felt that such acts should be nipped in the bud, else the same would have major ramifications, not only to the economic stability, but also to the security of the country and that acts of such individuals casts a serious shadow on the persons doing legitimate business, in the interest and welfare of the nation and its economic stability and also for the purpose of weeding out such unscrupulous elements, had directed the Superintendent of Police, Coimbatore to file necessary status report providing the following details :-

*i) The total number of foreign nationals, who are at present staying in and around Coimbatore and Tiruppur Districts;*

*ii) How many of the said foreign nationals are Nigerians;*

*iii) How many of the persons are staying with valid visas and how many persons are staying beyond the validity of the visas;*

*iv) How many of the foreign nationals have criminal cases registered against them and under what provisions of the criminal law;*

*v) Whether such of those persons have been apprehended and remanded to judicial custody;*

*vi) If not the steps taken by the law enforcement wing for apprehending such individuals.*

5. Pursuant to the said direction, interim status report was filed on behalf of the Superintendent of Police, Coimbatore District, giving the details of the foreign nationals, who are under the scanner of the police authorities and the various cases pending against them, pertaining to the Districts of Coimbatore, Tiruppur and Erode Districts.

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6. Thereafter, vide order dated 24.6.21, on the directions of this Court calling upon the Director General of Police to furnish a comprehensive report to file particulars about the various persons from foreign countries with their

residential details and their entry and also their status as on date, further interim status report was filed on behalf of the Director General of Police, in which it has been submitted that it requires coordination from very many Governmental agencies and, therefore, it would not be possible to file the same within a particular time frame, as directed by this Court.

7. In furtherance to the said report, taking note of the difficulties expressed by the 1<sup>st</sup> respondent with regard to collation of data, as sought for by this Court, this Court, suo motu, impleaded the Foreigners Regional Registration Officer (FRRO) as party respondent to the petition and issued notice on the Addl. Solicitor General vide its order dated 5.7.2021.

8. Pursuant to the said impleadment, the matter was taken up on 16.8.21 on which date, the learned senior panel counsel appearing for the Central Government filed a memo detailing the total number of foreign nationals, who are overstaying their visa period, as provided by the Foreigners International Check Post data. The immigration and other laws do not permit any foreign national to overstay in the country beyond the period of visa and in the aforesaid backdrop, this Court queried the Central Government Panel Counsel as to the



mechanism available for identifying the individuals for deporting them back to their country. The Court, oblivious of the fact that overstaying of any foreign national in the country without a valid visa is not only illegal, but also poses a security risk to the safety of the motherland and in the said backdrop, this Court directed the Central Government Panel Counsel to file a report as to the mechanism available for identifying the foreign nationals, who are overstaying their visa period and the mechanism that has been devised/available to deport the said foreign nationals back to their country.

9. Further, this Court felt that the presence of the Secretary, Ministry of Home Affairs, Government of India, New Delhi, the Home Ministry, Bureau of Immigration, Ministry of Home Affairs, Government of India and (iii) Director General of Police, Government of Tamil Nadu are necessary for the purpose of placing before this Court the mechanism that is in place for deportation of the foreign nationals, who are overstaying their visa period and, therefore, in the fitness of things, impleaded the aforesaid authorities as party respondents to the petition and further listed the matter on 25.8.2021.

10. Further to the said direction, compliance report has been filed by the Director General of Police, Tamil Nadu, detailing the list of foreigners who have overstayed beyond the visa period from 1.1.19 to 31.1.2020 under different types of visas and also the circular issued by the said authority on this aspect.

11. Pursuant to the time granted to the learned Central Government Standing Counsel for getting instructions relating to the mechanism available for deportation of the foreigners, who have overstayed their visa period, the guidelines relating to grant of permission for travel within the territory of India for the various foreign nationals, who come to India, either on tourist purpose or on other purposes, have been issued by the Ministry of Home Affairs, Government of India from time to time.

12. A perusal of the compilation submitted on behalf of the Union of India reveals that from time to time, guidelines have emanated from the Ministry of Home Affairs with regard to the procedure to be followed in dealing with foreigners, who are visiting the country on different types of visas. Separate communications have been issued with regard to deportation of foreign nationals belonging to Pakistan, Afghanistan, China, Bangladesh.



13. Vide communication dated 26<sup>th</sup> Aug., 2010, Ministry of Home Affairs have issued detailed guidelines with regard to the repatriation of Pakistani prisoners, who have completed their sentence. A perusal of the said guidelines show that they are exhaustive and the various procedures to be followed for the deportation of the Pakistani nationals are clearly spelt out.

14. Insofar as the repatriation/deportation of the foreign nationals, instructions also have been given to all the State Governments by the Ministry of Home Affairs vide its communication dated 24<sup>th</sup> April, 2014. For better understanding the guidelines are quoted hereunder :-

**“3. Procedure with regard to deportation of a foreigner who is arrested (other than a Pakistani National)”**

3.1 In all cases where the foreigner is arrested and action is taken under the relevant Acts, the foreigner can be deported only after completion of the sentence/court proceedings. In such cases, the foreigner can be deported by the State Government/UT Administration/FRRO/FRO concerned immediately on completion of the sentence/court proceedings, if he/she has a valid travel document/passport and subject to no other court case pending against him/her and there is nothing adverse against him/her. In case the foreigner does not have a valid travel document/passport, it is necessary to obtain the

*requisite travel document from the Embassy/High Commission of the country concerned before he/she can be deported. In such cases, the State Government/UT Administration/FRRO/FRO concerned may take up the matter regarding issuance of travel document in favour of the foreigner with the Ministry of External Affairs (Consular Division), Patiala House Annexe, Tilak, Marg, New Delhi 110 001 with detailed particulars and photograph of the said foreigner well before the actual date of completion of sentence. You are requested to ensure that this process is initiated at least 3 months before completion of sentence of the foreigner so that the travel document of the foreigner is made available by the Embassy/High Commission concerned well before he/she completes the sentence, which would facilitate his/her deportation immediately after he/she has completed the sentence.*

**Procedure with regard to repatriation of Pakistani nationals who are arrested**

4.1 In the case of Pakistani nationals who are arrested, the repatriation is done in terms of the Agreement on Consular Access signed between the Governments of India and Pakistan on 21<sup>st</sup> May, 1988. Such Pakistani nationals can be repatriated only after completion of the sentence/court proceedings, grant of Consular Access, confirmation of nationality and issuance of the travel documents by the Pakistan High Commission. Decision on repatriation of such Pakistani nationals is taken by the Ministry of Home Affairs after the following aspects are complied with :-

(a) State Government/UT Administration concerned has confirmed that no other criminal case is pending against the particular Pakistani national and that they have no objection to his/her repatriation.

(b) Nationality of the particular Pakistani national has been confirmed by the Pakistani High Commission and the requisite travel document has been issued in his favour.

It may also be stated that in terms of the Agreement signed between the Governments of India and Pakistan on 21.5.1988, Consular Access is to be provided within 3 months of arrest of a Pakistani national.

\* \* \* \* \*

**5. Specific instructions with regard to the procedure for deportation of illegally staying Bangladeshi nationals**

5. Ministry of Home Affairs vide letter no.F.14011/55/09-F.VI dated 23<sup>rd</sup> November, 2009, had issued detailed instructions to all State Governments/UT Administrations with regard to the procedure to be followed for deportation of illegally staying Bangladeshi nationals. These instructions were partially modified vide this Ministry's letter dated 22<sup>nd</sup> February, 2011. Copies of this Ministry's letter dated 23.11.2009 and 22.2.2011 referred to above are enclosed for information and strict compliance."

15. On the heels of the communication issued by the Ministry of Home Affairs dated 25.11.09 and 22.2.2011, vide communication dated 5<sup>th</sup> March, 2013,

the Ministry of Home Affairs has also spelt out the procedure for deportation of Bangladeshi nationals and instructions have also been issued in this regard, which are as under :-

*"3. Accordingly, the following instructions are once again brought to the notice of all State Governments/Union Territory Administrations for strict compliance :-*

*1. State Government/UT Administrations shall intimate the West Bengal Police and BSF well in advance of the number of illegal Bangladeshi immigrants being brought by them for deportation and the date of arrival at the Howrah/Sealdah Railway Stations. No deportee shall be sent by the State Government/UT Administration to Kolkata without this prior intimation. Government of West Bengal will inform all State Governments/UT Administrations the name of the nodal officer of the West Bengal Police coordinating the deportation and his/her contact telephone number, fax number, email id, etc.*

*2. The illegal Bangladeshi immigrants shall be sent by the respective State governments/UT Administrations to Kolkata in batches once or twice in a month so as to facilitate making necessary arrangements by the West Bengal Police and BSF for their deportation.*

*3. The illegal Bangladeshi immigrants brought by the State/UT Police not having border with Bangladesh shall be handed over by them to the designated West Bengal Police unit at Howrah/Sealdah Railway Stations and not to the BSF Battalion directly.*

*4. As soon as a Bangladeshi national is arrested, his/her complete details as in the prescribed format (copy enclosed) may be furnished by the State Governments/UT Administrations to the Ministry of External Affairs (BSM Division) so that the same can be taken up by the Ministry of External Affairs with the Bangladesh High Commission, which would enable the Bangladesh High Commission to process the case for nationality verification immediately. In the case of West Bengal, such details may be furnished immediately to the Deputy High Commissioner, Bangladesh High Commission in Kolkata through the Branch Secretariat, Ministry of External Affairs, Kolkata.”*

16. Various communications have emanated from the Ministry of Home Affairs relating to the setting up of detention centres/holding centres/camps for restricting the movements of illegal immigrants. Further, vide communication dated 8<sup>th</sup> Aug., 2017 the Ministry of Home Affairs has addressed the State Governments/UT Administrations with regard to identification of illegal migrants and monitoring their movement thereof by reiterating the legal provisions in and by which the said illegal immigrants can be deported out of the country. Thereafter, vide communication dated 28.2.2018, guidelines have been issued for identifying illegal migrants in different parts of the country, keeping a watch on their movement/activities, restricting illegal migrants to specific identified locations, capturing their biographic particulars and biometric traits, curbing



fake/fabricated Indian documents by such illegal migrants, identification of touts and action against them, identification of vulnerable points or illegal infiltration, etc. The communication further reveals that certain State Governments/UT Administrations have reported completion of data collection. It is also evident from the said communication that software for collection of biometric traits is also being rolled out to enable capturing of biometric traits of illegal migrants.

17. It is further evident from the said communication that the State Governments/UT Administrations have been requested to sensitize the law enforcement agencies to take appropriate and prompt steps for identification of illegal migrants for collection of the aforesaid particulars and also for initiating deportation proceedings. Legal action is also sought to be taken against such of those individuals, who have wrongfully obtained Aadhar Cards by coordinating with UIDAI.

18. Vide communication dated 9<sup>th</sup> Jan., 2019, the Ministry of Home Affairs, pursuant to the meeting and also comments received from various State Governments/UT Administrations has prepared the Model Detention Centre/Holding Centre/Camp Manual. A perusal of the said document reveals



that legal provisions for deportation and detention of foreign nationals and also the instructions with regard to detention centres have been provided therein. Further the categories of persons, who may be detained in the said centres and amenities to be provided in the detention centres have also been specified.

19. From the above sequence of communications, it is amply evident that exhaustive guidelines have been framed for identification and deportation of illegal migrants and persons who are overstaying their visa period. But inspite of the exhaustiveness of the said guidelines, still there seems to be 13,289 who have been said to be overstaying their visa period, as provided by the International Check Post. The said number only pertains to the districts of Chennai, Trichy, Coimbatore and Madurai. The above number reflects of the enormity of the persons, who are illegally staying in the country without any valid permission and who are to have been deported on the basis of the guidelines issued by the Ministry of Home Affairs. But, there seems to be no positive action coming from the side of the State Government in identifying the foreign nationals, who are staying within the State without holding a valid permission/visa.

20. In the above backdrop, the present matters assumes much significance. The petitioners, who are before this Court seeking bail, are persons, who are either illegal migrants or persons, who have entered into the Indian territory on a valid visa, but have overstayed the visa period and by committing certain petty offences, are either still at large or facing trial or conviction and sentence. In this scenario, it is necessary for this Court to tabulate the nationality and the act committed by the various petitioners, which has resulted in them either facing criminal prosecution or undergoing sentence or have come out after serving the sentence, but no action has been taken to deport them :-

Case No.	Nationality	Type of Offence
Crl. O.P. No.5875/2021	Srilankan	Convicted / Sentence Undergone & thereafter illegal stay for 16 years
Cr. O.P. No.5885/2021	Srilankan	No valid permission/visa and usage of fake ID proof
Crl. O.P. No.8505/2021	Srilankan	Convicted / Sentence undergone & thereafter once again arrested
Crl. O.P. No.7951/2021	Nigerian	Counterfeit currency
Crl. O.P. No.16359/2021	Chinese	Loan of money for interest through online application
Crl. O.P. No.16151/2021	Iranian	Fake Aadhar Card
Crl. O.P. No.15508/2021	Iranian	Fake Aadhar Card
Crl. O.P. No.16036/2021	Bangladeshi	Illegal stay without valid document
Crl. O.P. No.16089/2021	Srilankan	Fake Documents
Crl. O.P. No.16911/2021	Bangladeshi	Illegal immigrant without valid documents

21. In the decision in ***Prof. Bhim Singh – Vs – Union of India & Ors. (2015 (13) SCC 605)***, the Hon'ble Supreme Court has observed that with regard to foreign nationals, who have been convicted and completed their sentence, in the event of non-confirmation of their nationality, which prevents their repatriation, have to be kept in India, but not confined to prison, which would be in deprivation of their basic human rights and human dignity, but should be kept in detention camps/holding centre. Therefore, it is emphatically clear that once a person completes the sentence, he/she should be deported back to his country of birth.

22. A perusal of the above tabulated statement reveals a very sorry state of affairs insofar as the non-implementation of the guidelines issued by the Ministry of Home Affairs as also the decision in *Bhim Singh's case (supra)*. Persons, who have undergone their sentence have stayed for over a decade in the country without any valid documents and persons without any valid documents have entered into the country and have been staying here and even obtained identity cards using fake documents. The act of such unscrupulous individuals poses a great risk and threat to the security and sovereignty of the

country. Inspite of very many circulars issued by the Central government, however, no plausible and useful steps have been taken by the law enforcing agency to secure the persons, detain them at the detention camps/holding centres and, thereafter, through the formulated process, deport those individuals back to their country of origin.

23. It is to be pointed out that day-in and day-out, the security of our motherland is being jeopardized due to the lethargic act of the Governmental machinery in not adhering to the guidelines issued by the Ministry of Home Affairs pertaining to deportation/repatriation of the foreign nationals, who stay put in the country without any valid permission/visa. Not only the said individuals infract the law, by being in the Indian territory without any valid visa, many of such individuals misuse the stay and indulge in very many nefarious activities which are detrimental to the nation as a whole.

24. It is to be pointed out that inspite of the fact that some of the petitioners, who are illegal immigrants, having been convicted and have also undergone and completed their sentence, however, they are yet to be deported back to their country inspite of explicit guidelines framed in this regard by the

Ministry of Home Affairs. The act of the law enforcing agency of the State in not adhering to the guidelines framed by the Ministry of Home Affairs in letter and spirit, relating to deportation/repatriation of such of those foreign nationals is causing grave concern to the safety and security of the country and, in fact, very many foreign nationals are indulging in acts, which are prejudicial to the interests of the country, which acts, are both economical/financial and also terrorist related activities.

25. In the cases on hand, the foreign nationals have been staying within the Indian terrain beyond the prescribed periods and in some cases, their illegal stay within the country is even beyond a decade and till date no positive steps have been taken for off-boarding them to their country of origin. Though FRRO and International Check Post (for short 'ICP') are the pivotal points, which are the authorities, with whom the data relating to the foreign nationals, who have entered the Indian territorial jurisdiction are available, however, without the active participation of the State law enforcing agency, enforcing the guidelines for the identification and deportation of the foreign nationals, who are staying beyond the period of their visa, could not be achieved. Therefore, it is evident from the above that the State law enforcing agency is the fulcrum of the whole

setup which has to identify the illegal immigrants and foreign nationals without valid permission staying in the country and take appropriate action to apprehend them and bring them to the notice of FRRO/ICP so that the process of deportation/repatriation can be taken up. However, the facts, as has unfolded before this Court clearly reveals that all is not well and that there is no coordinated effort from the Governmental machinery and the law enforcing agency to strictly adhere to the guidelines issued in this regard, which has paved the way for illegal migrants continuing to stay over in this country and indulge in nefarious activities.

26. It is also come to the attention of this Court that the illegal migrants, with a view to circumvent the deportation procedures and to continue their stay with the territory of India resort to certain subterfuge, like, committing petty crimes and serving simple sentences and come out and do the same once over. Such acts by those illegal migrants for any purpose, is not in the safety and security of the country. However, no mechanism or law is available as on date to identify such individuals and curb such acts.



27. In the above stated scenario, this Court is of the view that in the absence of any mechanism between FRRO/ICP and the State law enforcing agency, directions need to be given by this court so that the guidelines issued by the Ministry of Home Affairs needs to be strictly adhered to so that the menace of illegal immigrants and foreign nationals overstaying their visa period are put an end to. In the circumstances, the following directions are issued :-

*i) The FRRO/ICP shall communicate fortnightly, the entry of any foreign national within the State with details of the Passport and visa as also their nationality to the State Law Enforcing Agency;*

*ii) Insofar as the illegal migrants are concerned, who are identified by the State Law Enforcing Agency, they shall be forthwith sent to the detention camps/holding centres as per the guidelines framed by the Ministry of Home Affairs as noted above;*

*iii) On the illegal migrants being brought to the detention camps/holding homes, necessary action shall be taken by the concerned authorities for deporting/repatriating the illegal migrants to their country of birth within the time prescribed in the guidelines;*

*iv) The State Law Enforcing Agency shall devise mechanism to have outposts at the FRRO/ICP points so that the foreign nationals, who enter the Indian territory,*

*on they being registered at the FRRO/ICP, the said authorities shall share the data of the foreign nationals with the Law Enforcing Agency, who, in turn, shall co-ordinate with the various hotels/rest houses under their jurisdiction and collect data about the registration of the said foreign nationals in the said hotels/rest houses and also monitor their departure on mandatorily being informed of their departure by the concerned hotels/rest houses;*

*v) The Law Enforcing Agency of the State shall take steps to identify the foreign nationals, who are lodged in various prisons throughout the State, as also the illegal migrant, confined in prison for any crime and take appropriate steps to have the person deported to his/her country of birth immediately on completion of the sentence;*

*vi) Insofar as any foreign national, who is lodged in various prisons throughout the State for certain criminal acts committed by them during their visit to the country is concerned, steps shall be taken by the concerned authority to have the person deported to his/her country of birth immediately on completion of the sentence;*

*vii) The jurisdictional police authorities, who are monitoring the movement of the various foreign nationals within their jurisdiction through their stay at hotels/rest houses, shall record the exit of the concerned foreign*

*national from their jurisdiction and record of such exit of the foreign nationals shall be communicated to the District Headquarters once in a fortnight;*

*viii) The 5<sup>th</sup> respondent shall create a separate wing in each district to monitor the movement of the foreign nationals within the said district in relation to the report submitted by the concerned jurisdictional police authorities;*

*ix) Insofar as petty offences being committed by illegal immigrants repeatedly for the purpose of staying within the territorial limits of the Indian sub-continent is concerned, the 3<sup>rd</sup> respondent is directed to explore the possibilities of framing appropriate laws to keep the illegal migrants as prisoners within the confines of the detention camps/holding camps by earmarking specific areas within the detention camps/holding camps so that immediately on completion of the sentence by such of those persons, the said individuals could be deported back to their country of birth;*

*x) Insofar as serious crimes committed by illegal migrants/foreign nationals who are staying in the country without valid permission, the guidelines issued by the Ministry of Home Affairs as to their deportation should be scrupulously adhered to and necessary action for ascertaining their nationality and deportation formalities should be completed prior to the release of the said*

***persons from confinement and they should be directly deported back to their country of birth without even moving them to the detention camps/holding centres, in order to avoid escapement, etc.;***

***xi) The aforesaid suggestion of framing necessary laws as suggested in clause (ix) above shall be framed by the 3<sup>rd</sup> respondent within a period of three months from the date of receipt of a copy of this order;***

***xii) Insofar as the foreign nationals/illegal immigrants who are serving prison sentence, the concerned authority and Law Enforcing Agency shall coordinate and take necessary steps for deportation of such of the foreign nationals/illegal immigrants by taking action three months prior to the release of the persons in accordance with the guidelines issued by the Ministry of Home Affairs.***

28. Insofar as the present bail petitions are concerned, though it is the case of the petitioners in some of the petitions that they are residents of Indian origin, however, it is to be pointed out that such a plea is not substantiated by any material. Further, in few cases, one of the allegation against the petitioner in addition to their illegal migrant status is the fact that they have obtained identity cards, such as Aadhar cards from UIDAI by using fake documents, which is *per se* a criminal offence and without proper investigation allowing such of those

petitioners to walk out on bail would be detrimental to the safety and security of the country. Further, certain petitioners, who are illegal immigrants, are residing within the Indian territory for decades together without being deported back to their country of birth due to the lacunae on the part of the Governmental machinery and the Law Enforcing Agency. Allowing such lacunae to continue further would be nothing but aiding and abetting the commission of a crime, which is impermissible and allowing such act to prosper without dealing it in accordance with law would lead to enormous ramifications on very many fronts and would put in peril the safety and security of the citizens of the country and in course of time, the Indian sub-continent would be grazing grounds for the predators of illegal migrants with a devious mind to take over the country, which would lead to a pre-independence scenario. Therefore, this Court is not inclined to accept the plea of the petitioners for grant of bail.

29. Insofar as the petitioner in Crl. O.P. No.10689/21 is concerned, though bail has been granted to him by the court below, however, citing that the condition relating to directing the petitioner to stay at the Trichy Special Refugees Camp is onerous, the present petition has been filed. It is the pleadment of the petitioner that the present pandemic situation prevented him from getting his

visa extended. Though such a stand is taken by the petitioner, however, the allegation against the petitioner is that he created fake documents for the purpose of obtaining the requisite permission and that investigation is underway.

30. From the above, it is evident that in view of the nature of the case and the allegations made against the petitioner, the court below, conscious of the guidelines issued by the Ministry of Home Affairs pertaining to illegal immigrants, had imposed the condition relating to stay at the Trichy Special Refugees Camp. The said condition, could in no way be termed to be onerous and, therefore, this Court is of the considered view that no interference is warranted with the same.

31. In such view of the matter, in view of the very many grave nature of the allegations against the petitioners and also their status with regard to their stay within the Indian territory without valid permission being put in issue, this Court is of the considered view that the prayer for bail and relaxation as sought for by the respective petitioners cannot be acceded to and, accordingly, these petitions are liable to be dismissed.



32. For the reasons aforesaid, all the petitions are dismissed. The respondents are directed to file necessary status report as to the action taken by them on the directions issued by this Court above by the next date of hearing.

33. For reporting compliance and filing status report, call on 4<sup>th</sup> Jan., 2022.

**27.09.2021**

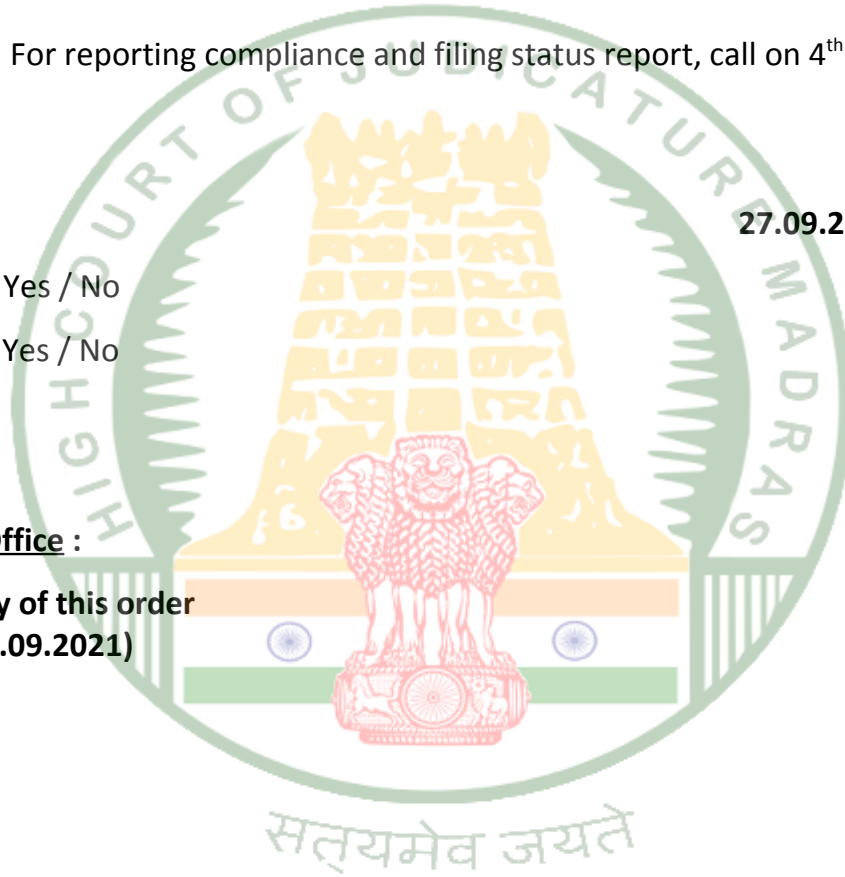
Index : Yes / No

Internet : Yes / No

GLN

**Note to Office :**

**Issue copy of this order  
today (27.09.2021)**



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To

1. Inspector of Police  
Q Branch, Crime Investigation Dept.  
Kancheepuram District.
2. Foreigners Regional Registration  
Officer (FRRO), Bureau of Immigration  
Shastri Bhavan, Annexe Building  
26, Haddows Road, Nungambakkam
3. The Secretary  
Ministry of Home Affairs  
Government of India  
New Delhi.
4. The Bureau of Immigration  
Ministry of Home Affairs  
Government of India  
New Delhi.
5. Director General of Police  
Government of Tamil Nadu  
Chennai.

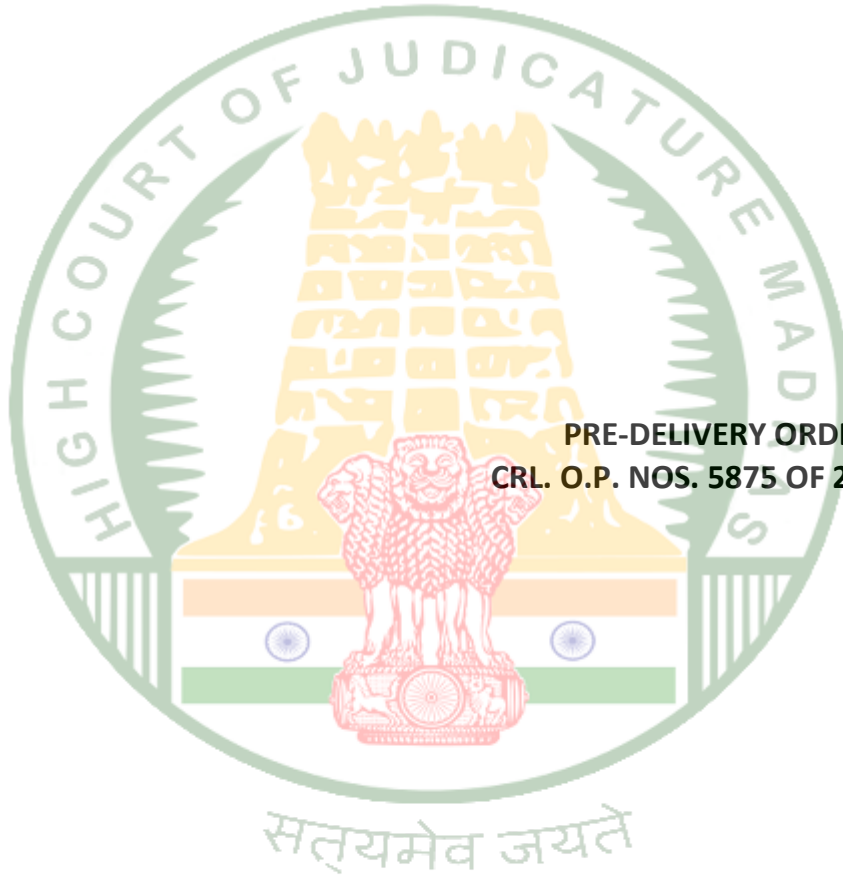


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**M.DHANDAPANI, J.**

**GLN**



**PRE-DELIVERY ORDER IN  
CRL. O.P. NOS. 5875 OF 2021, ETC.**

**Pronounced on  
27.09.2021**

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