

Crl.O.P.No.12629 of 2015**R.SUBBIAH, J.**

Apprehending arrest at the hands of the respondent-Police, for the alleged offences punishable under Sections 120(B), 384, 420, 506(i), 34 IPC and Sections 8 & 13 of Prevention of Corruption Act, in Crime No.2 of 2014, the petitioner has approached this Court seeking the relief of anticipatory bail.

2. The case of the prosecution, in brief, is as follows_ The petitioner herein G.Sampathkumar IPS, the then Superintendent of Police 'Q' Branch, Chennai, has been arrayed as 4th accused in this case. The 1st accused Mahendra Singh Ranka is the friend of the petitioner herein/A4 and he contacted the petitioner/A4 to help some Jain community people who involved in the criminal case in CB CID Metro Cr.No.1 of 2013 (IPL Cricket betting case) and the 1st accused promised the petitioner/A4 to pay an amount of Rs.60 lakhs to help bookies to escape from the clutches of law. The petitioner/A4 accepted the deal and directed the 1st accused to deliver Rs.10 lakhs to his friend Tr.Varadharajan on 22.05.2013, which was collected by one Tr.Sathappan on behalf of Tr.Varadharajan, near Hotel Ashoka, Egmore, Chennai at around 10.00 pm and a sum of Rs.15 lakhs to his friend

Tr.K.K.Murugan, which was collected by Tr.Samy @ Subramanian on 23.05.2013 near Hotel Ashoka at around 01.30 pm and a sum of Rs.5 lakhs to his friend Jeyachandran which was collected by one Sasikumar on 23.05.2013 near Hotel Ashoka, Egmore, Chennai at around 01.30 pm. On investigation it was further revealed that the 1st accused delivered a cash amount of Rs.30 lakhs to the petitioner/A4 at his office in the DGP Office campus, Mylapore, Chennai, on 23.05.2013, when the petitioner/A4 was the Superintendent of Police 'Q' Branch, Chennai. Hence, the case has been registered in CB CID Hqrs Cr.No.2/2013 under Sections 120(B), 384, 420, 506(i) & 34 IPC and Sections 8, 13(1)(d)(i) r/w 13(2) of the Prevention of Corruption Act, 1988.

3.On completion of investigation, a final report has also been filed before the learned XI Metropolitan Magistrate, Saidapet and since the petitioner is absconding, the learned Magistrate has issued a Non-Bailable Warrant against the petitioner herein/A4. Hence, the present petition has been filed by the petitioner seeking the relief of anticipatory bail.

4.The learned counsel for the petitioner submitted that it is only

a false case foisted against the petitioner and he is no way connected with the case.

5.The learned Public Prosecutor has vehemently opposed the grant of anticipatory bail to the petitioner, contending that since NBW is pending as against the petitioner herein/A4, the proper remedy for the petitioner is to file an application before the concerned Court to recall the NBW; hence, the anticipatory bail petition is liable to be dismissed.

6.But, it is the reply of the learned counsel appearing for the petitioner/A4 that when there is an apprehension of arrest, the petition for anticipatory bail is maintainable before this Court.

7.Keeping the submissions made on either side I have carefully gone through the entire materials available on record. I find that now, on completion of investigation, final report has been filed before the concerned Magistrate and since the petitioner/A4 is absconding, the concerned Magistrate has also issued NBW as against the petitioner/A4. Since the petitioner/A4 has been declared as an absconding accused, he is not entitled to anticipatory bail. In this

regard, a reference could be placed in the judgment delivered by the Hon'ble Supreme Court in the case of ***State of Madhya Pradesh Vs. Pradeep Sharma*** reported in ***AIR 2014 SC 626***, wherein it has been held as follows__

“It is relevant to point out that both the accused are facing prosecution for offences punishable under Sections 302 and 120B read with Section 34 of IPC. In such serious offences, particularly, the respondents /accused being proclaimed offenders, we are unable to sustain the impugned orders of granting anticipatory bail. The High Court failed to appreciate that it is a settled position of law that where the accused has been declared as an absconder and has not co-operated with the investigation, he should not be granted anticipatory bail.”

In the light of the above decision of the Hon'ble Supreme Court, I am of the opinion that as contended by the learned Public Prosecutor, the proper course for the petitioner is only to approach the Court below

and to file an application to recall the NBW issued against him. Hence, I am not inclined to grant anticipatory bail to the petitioner.

In fine, the Criminal Original Petition is dismissed. However, the petitioner is at liberty to approach the Court below to get proper relief.

17.06.2015

SSV

R.SUBBIAH, J.

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Pre-delivery order

in

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