

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Twenty Seventh day of January Two Thousand Fifteen
PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP(MD) No.21553 of 2014

WEB COPY

PITCHAI

... PETITIONER/1st ACCUSED

Vs

THE STATE REP BY
THE SUB-INSPECTOR OF POLICE
DISTRICT CRIME BRANCH,
VIRUDHUNAGAR DT,
CRIME NO.01/2011

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.D.SADIQ RAJA Advocate

For Respondent : MR.C.RAMESH, Govt. Advocate (Crl. Side)

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

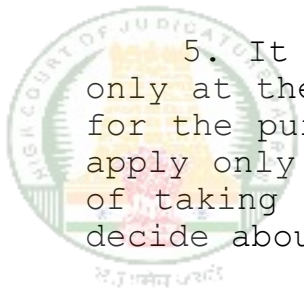
ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 420, 406, 408, 467 and 468 IPC in Crime No.1 of 2011 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that this petitioner was the President of Kadambankulam Panchayat in Virudunagar District during the year 2011. This petitioner lodged a complaint before the Police on 07.01.2011, alleging that one Periyasamy, a Clerk in the said Panchayat, had misappropriated a sum of Rs.91,168/- and therefore, in the FIR, the said Periyasamy was shown as an accused and this petitioner was shown as the complainant. During the course of investigation, it came to light that this petitioner and Periyasamy together embezzled the amount and therefore, this petitioner has been made as A1.

3. The allegation against this petitioner appears to be very serious inasmuch as an elected President of Panchayat has indulged in embezzlement of Government funds in collusion with his clerk.

4. Learned counsel for the petitioner submitted that the allegations against this petitioner are very vague and that authorities should have resorted to civil action against this petitioner under the Panchayats Act. Learned counsel for the petitioner also brought to my notice the provisions of Section 230 (1) of Panchayats Act and submitted that sanction for prosecution could be given only by the Government, but whereas the District Collector has granted sanction, which is illegal.



5. It is seen that the provisions of Section 230(1) will apply only at the time of cognizance of the offences by the Court and not for the purpose of investigation. That apart, those provisions will apply only if the concerned public servant is in office at the time of taking cognizance of the offences. Now, it is too premature to decide about the validity of the sanction.

6. Learned counsel for the petitioner further submitted that it was the petitioner, who was the whistle blower in this case and he had set the criminal law in motion by lodging the present complaint by filing a private complaint before the learned Judicial Magistrate No.II, Virudhunagar and on whose direction under Section 156(3) Cr.P.C., this case came to be registered.

7. This may be true, but that will not absolve the petitioner from criminal liability, because during the course of investigation, 30 witnesses have been examined by the Police and several documents have been seized. An enquiry appears to have been conducted by the Regional Development Officer, who in his report, stated that this petitioner and A2 have collected Rs.1,74,636/- as Professional Tax on 07.09.2009 and they have deposited only Rs.91,500/- in the Panchayat account and have embezzled Rs.83,136/-. Similarly, they have collected Rs.8,302/- towards Professional Tax from Teachers within the jurisdiction and have not remitted the amount to the Panchayat account.

8. In view of the serious nature of allegations against this petitioner, this Court is not inclined to grant anticipatory bail to this petitioner. Hence, the Criminal Original Petition is dismissed.

sd/-

27/01/2015

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE SUB-INSPECTOR OF POLICE DISTRICT CRIME BRANCH,
VIRUDHUNAGAR DT,

2 THE ADDL.PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.D.SADIQ RAJA Advocate SR.No.3535

ORDER

IN

CRL OP(MD) No.21553 of 2014

Date :27/01/2015