BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Wednesday, the Seventh day of January Two Thousand Fifteen

PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP(MD)Nos.23176 & 23177 of 2014

S.JEGADEESAN ..PETITIONER/ACCUSED NO.7 IN CRL.OP(MD)NO.23176/2014

S.VAIKUNDARAJAN ..PETITIONER/ACCUSED NO.6 IN CRL.OP(MD)NO.23177/2014

Vs.

STATE REP.BY THE INSPECTOR OF POLICE
CENTRAL BUREAU OF INVESTIGATION,
ANTI OCRRUPTION BRANCH, CHENNAI.
CRIME NO.RC MA1 2012 A 0055 &
CRIME NO.RC MA1 2012 A 055 RESPECTIVELY ..RESPONDENT/COMPLAINANT IN BOTH THE PETITIONS

For Petitioner : M/S.I.SUBRAMANIAN, Senior Counsel for Mr.R.ANAND Advocate in Crl.OP(MD)No.23176/2014

For Petitioner : M/S.GOPAL SUBRAMANIAN, Senior Counsel for Mr.R.ANAND Advocate in Crl.OP(MD)No.23177/2014

For Respondent : MR.G.R.SWAMINATHAN, Assistant Solicitor General of India.

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

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 120(B) IPC and Section 13(2) r/w 13(1)(e) of the Prevention of Corruption Act, 1988 (in short “P.C. Act') in R.C.No.55 of 2012 the file of the respondent police, seek anticipatory bail.

2. Heard Mr.I.Subramanian, learned Senior Counsel for Mr.Anand and Mr.Kumaresh, learned counsels for the petitioner in Crl.O.P.No.23176 of 2014, Mr.Gopal Subramaniam, learned Senior Counsel for Mr.Anand and Mr.Kumaresh, learned counsels for the petitioner in Crl.O.P.No.23177 of 2014 and Mr.G.R.Swaminathan, learned Assistant Solicitor General of India for the respondent.

3. These are second anticipatory bail petitions and the first anticipatory bail petition in Crl.O.P.(MD) No.19357 of 2014 was dismissed by this Court on 07.11.2014.

4. Mr.G.R.Swaminathan, learned Assistant Solicitor General of India (ASG) submitted that after dismissal of the earlier anticipatory bail petition, there is no change in fact situation warranting interference by this Court.

5. Mr.Gopal Subramaniam, learned counsel for the petitioner submitted that this Court, while dismissing the earlier anticipatory bail petition, has stated in paragraph no.6 as follows:

> “6. Considering the above facts and circumstances of the case, this Court is not inclined to grant anticipatory bail to

the petitioners at this stage. Hence, this petition is dismissed.”

He emphasised on the expression “at this stage” and submitted that several vital facts were not highlighted earlier before this Court and that he would make an endeavour to place all those facts for better appreciation of the petitioners' plea.

6. Facts admitted by both sides are as follows:

i) On 30.08.2011, the Central Bureau of Investigation (in short “the CBI”) registered a case in R.C.No.34 of 2011 under Section 13(2) r/w 13 (1)(d) of P.C. Act, 1988, 120(B) r/w 420 IPC against 1) Shankar Rao (the then Chief Engineer, Tuticorin Port Trust), 2) R.Thyagarajan (the then Executive Engineer (Projects), Tuticorin Port Trust), 3) M/s.Darthi Dredging and Infrastructure Ltd., Hyderabad, represented by Kantha Rao, its Managing Director and other unknown officials of Tuticorin Port Trust / unknown Public Servants. The crux of the allegations was that the officials of Tuticorin Port Trust had abused their official position and awarded the Dredging contract to Darthi Dredging and Infrastructure Ltd (A3) for pecuniary gains. During the course of investigation in that case, the CBI stumbled upon materials showing that Mr.A.Subbiah, IAS, who was Chairman of Tuticorin Post Trust, had amassed assets, disproportionate to his known source of income;

ii) On such discovery, the CBI registered a fresh case in R.C.No.55 of 2012 on 24.12.2012 under Sections 120(B) IPC and Section 13(2) r/w 13 (1)(e) of the P.C.Act, 1988 against 1) A.Subbiah, IAS, 2) A.Jayaraman (brother of A.Subbiah), 3) L.S.Radhika (wife of A.Subbiah), 4) R.Ganga (wife of A.Jayaraman), 5) A.Janaki (mother of A1 and A2), 6) S.Vaikundarajan (A6) / Partner in V.V.Minerals, Tuticorin (petitioner in Crl.O.P.(MD) No.23177 of 2014) and 7) S.Jagatheesan (A7) / Partner in V.V.Minerals, Tuticorin (petitioner in Crl.O.P.(MD) No.23176 of 2014. The check period is from 30.04.2007 to 30.04.2012.

It must be noted here that this case was registered as early as December, 2012. Investigation was in progress both in R.C.Nos.34 of 2011 and 55 of 2012. Mr.A.Subbiah, IAS (A1) is continuing in service and is presently the Secretary, IT Department, Government of West Bengal.

iii) On 03.05.2013, the CBI issued notice under Section 160 Cr.P.C. to S.Vaikundarajan (A6) and his brother S.Jagatheesan (A7) to appear before them on 10.05.2013 with all documents. In obedience to the said notice, Vaikundarajan appeared before the CBI on 10.05.2013 and submitted four documents sought for by them.

iv) On 06.07.2013, the CBI filed a closure report before the Special Court, Madurai for closing the case in R.C.No.34 of 2011 on the premise that their investigation revealed that the Public servants had not committed any misconduct punishable under the P.C. Act. The said report was also accepted by the learned Special Court and the case was closed.

v) On 16.08.2013, the CBI issued a notice under Section 160 Cr.P.C. to Vaikundarajan (A6) to appear before them for interrogation with certain documents on 23.08.2013. On 23.08.2013, Vaikundarajan (A6) appeared before them and took part in the interrogation.

vi) On 12.09.2013, he was again issued notice under Section 160 Cr.P.C. directing him to appear before the CBI on 24.09.2013. Accordingly, he appeared before the CBI Officers on 24.09.2013 and submitted himself for interrogation.

vii) On 17.10.2014, the CBI arrested A.Jayaraman (A2), who is the brother of Mr.A.Subbiah, IAS and this prompted Vaikundarajan and Jegadeesan to approach this Court for anticipatory bail in Crl.O.P.(MD) No.19357 of 2014 apprehending that they will also be arrested.

viii) On 20.11.2013, the CBI moved an application before the learned Special Judge, Madurai, praying for the return of certain documents that were submitted in connection with the investigation in R.C.No.34 of 2011 on the ground that those documents were required for the investigation in R.C.No.55 of 2012.

7. At this juncture, it may be necessary to advert to the argument advanced by Mr.Gopal Subramaniam, learned Senior Counsel for the petitioner in support of his plea that several important facts were not brought to the notice of this Court in the earlier anticipatory bail petition. It is his submission that Vaikundarajan (A6) was issued notice under Section 160 Cr.P.C. by the CBI on three occasions and he appeared before them and submitted all the documents that they wanted. But this fact was not disclosed by the CBI in the objection statement that was filed by them in Crl.O.P.(MD) No.19357 of 2014. He submitted that, had the CBI fairly told this Court that Vaikundarajan (A6) had appeared promptly in response to the 3 summons sent by them and submitted the documents sought by the CBI, this Court would not have dismissed the anticipatory bail petition. I perused the objection statement filed by the CBI in the earlier anticipatory bail petition and found that this important aspect has not been disclosed by the CBI then.

8. In response to this argument, Mr.G.R.Swaminathan, learned Assistant Solicitor General of India submitted that though the CBI had not mentioned this in the objection statement, learned counsels for the petitioners had brought this aspect to the notice of the learned Judge. There is force in the submission of Mr.Gopal Subramaniam, learned Senior Counsel that, had this Court been apprised of the co-operation rendered by the accused by appearing before the CBI as and when he was called,, there would have been reference about it in the order. Even after referring to it, this Court could have denied the relief, in which event this fact cannot be projected again. Similarly, Mr.Gopal Subramaniam submitted that it was also not brought to the notice of the learned Single Judge in the earlier anticipatory bail petition, that the CBI had filed closure report on 06.07.2013 in R.C.No.34 of 2011, which formed the basis for registering the case in R.C.No.55 of 2012.

9. After Jayaraman (A2) was arrested by the CBI, summons under Section 41(A) of Cr.P.C. were issued by the CBI to Vaikundarajan (A6) and Jegadeesan (A7) to appear before them on the very same day, i.e. on 16.12.2014. Vaikundarajan and Jegadeesan filed Crl.O.P.(MD) Nos.23347 and 23348 of 2014 under Section 482 Cr.P.C. to quash the said summons issued under Section 41(A) of Cr.P.C., before this Court. These two petitions were listed for hearing before a learned Judge, who was dealing with petitions under Section 482 Cr.P.C. on 19.12.2014 and on which date, learned Assistant Solicitor General of India appears to have represented to the Court that summons under Section 41(A) of Cr.P.C. are being withdrawn and on that score, this Court closed the petitions on 19.12.2014. When this aspect was argued before me, there was acrimonious exchange between the counsels on either side. Mr.G.R.Swaminathan, learned Assistant Solicitor General of India contended that he had made an endorsement in the case bundle in Crl.O.P.(MD) Nos.23347 and 23348 of 2014 to the effect that summons were withdrawn since custodial

interrogation of these petitioners are necessary. To this, the defense counsels stated that the learned ASG had only represented to the Court that summons were withdrawn without the caveat, custodial interrogation of the accused is necessary. On reading of the order dated 19.12.2014 passed by the learned Single Judge of this Court in Crl.O.P.Nos.23347 and 23348 of 2014, it is stated as follows:

> "2. The learned Assistant Solicitor General of India and Standing Counsel for CBI would make an endorsement that the respondent is withdrawing the notices issued to the petitioners under Section 41-A of Cr.P.C.
>
> 3. Since the notices issued to the petitioners under Section 41-A of Cr.P.C. have been withdrawn, nothing survives for consideration in these petitions Therefore, recording the endorsement made by the learned Assistant Solicitor General, these Criminal Original Petitions are disposed of. Consequently, connected Miscellaneous Petitions are closed."

10. It is the case of the defense that had the Assistant Solicitor General stated that summons were being withdrawn on the ground that they require the accused for custodial interrogation, that would have been reflected in the order passed by the learned Single Judge.

11. In view of the fact that there is no mention in the earlier dismissal order passed by this Court about the appearance of the accused before the CBI in obedience to the summons thrice, closure of R.C.No.34 of 2011 and the proceedings relating to withdrawal of Section 41A Cr.P.C. notice, I am of the opinion that the second anticipatory bail petition should not be dismissed at the threshold.

12. Coming to the kernel of the case in R.C.No.55 of 2012, A.Subbiah, IAS, while working as the Chairman of Tuticorin Port Trust between 30.04.2007 and 30.04.2012 (check period) had amassed assets and pecuniary resources to the tune of Rs.8,23,93,501/- in his name and in the names of his family members, which is disproportionate to his known and lawful source of income for which he was not able to account.

13. Admittedly, neither Vaikundarajan (A6) nor Jegadeesan (A7) are family members of A.Subbiah, IAS. To recapitulate, his family members are A.Jayaraman (brother of A.Subbiah), L.S.Radhika (wife of A.Subbiah), R.Ganga (wife of A.Jayaraman) and A.Janaki (mother of A1 and A2). It is not the case of the CBI that Vaikundarajan (A6) and Jegadeesan (A7) are holding properties that were acquired in their names with the ill-gotten wealth of A.Subbiah, IAS (A1). From reading of the materials placed by the CBI before me, it is seen that it is not their case that Vaikundarajan (A6) and Jegadeesan (A7) have abetted A.Subbiah, IAS in the commission of an offence under Section 13(1)(e) of P.C.Act, which is the subject matter of investigation in R.C.No.55 of 2012.

14. Allegation against these petitioners is that they had paid huge amount of money, namely, Rs.7.5 Crores between 13.08.2010 and 28.11.2011 by cheques to Janaki (A5), mother of A.Subbiah, IAS. It may be relevant to state here that it is not the case of the CBI that either A.Subbiah, IAS or Janaki had parked Rs.7.5 Crores with the petitioners, but it is the other way around.

15. Mr.Gopal Subramaniam, learned Senior Counsel for the petitioner submitted that even going by the CBI's assertion, the said sum of Rs.7.5 Crores was given by these petitioners to Janaki between 13.08.2010 and

28.11.2011, by cheques, which is prior to the registration of the FIR in R.C.No.55 of 2012, i.e., prior to 24.12.2012. Therefore, he submitted that by no stretch of imagination, the petitioners would be aware on 28.11.2011 that the CBI is going to register a case against the said A.Subbiah, IAS for offences under Sections 13(1)(e) of P.C.Act on 24.12.2012.

16. Mr.G.R.Swaminathan, learned Assistant Solicitor of India submitted that the FIR in R.C.No.34 of 2011 was registered on 30.08.2011 and when the CBI started conducting investigation in respect of that case, A.Subbiah, IAS and Vaikundarajan got scent of the impending danger and they have engineered this transaction with Janaki. Though, at first blush, Mr.G.R.Swaminathan's argument looked impressive, but on a perusal of the FIR, it is seen that these petitioners have paid Janaki Rs.7.5 Crores in installments beginning from 13.08.2010 and ending on 28.11.2011 and the payment details given in the FIR are extracted as under:

From the Federal Bank, Tuticorin Branch Account No.11910100058848 of Shri S.Jagatheesan:

Sl.No.	**Date**	**Cheque No.**	**Amouint**
1.	13.08.2010	10,021,562	5,000,000
2.	06.11.2010	10,021,569	7,500,000
3.	24.10.2011	10,028,018	5,000,000
4.	24.10.2011	10,028,019	5,000,000
5.	24.10.2011	10,028,020	5,000,000
6.	28.11.2011	10,028,021	10,000,000
Total			37,500,000

From the Federal Bank, Tuticorin Branch Account No.11910100062162 of Shri S.Vaikundarajan:

Sl.No.	**Date**	**Cheque No.**	**Amouint**
1.	13.08.2010	10,021,579	5,000,000
2.	06.11.2010	10,021,585	7,500,000
3.	24.10.2011	10,031,118	5,000,000
4.	24.10.2011	10,031,119	5,000,000
5.	24.10.2011	10,031,115	5,000,000
6.	28.11.2011	10,031,120	10,000,000
Total			37,500,000

17. I am unable to persuade myself to accept Mr.G.R.Swaminathan's argument, because even according to the FIR, the payment commenced from 13.08.2010 itself and the FIR in R.C.No.34 of 2011 was registered only on 30.08.2011. It must be remembered that neither A.Subbiah, IAS nor these petitioners were named as accused in R.C.No.34 of 2011 and that case relates to one Shankar Rao and other Officers of Tuticorin Port Trust, who had allegedly given the dredging contract to a private party abusing their official position. That was not a case under Section 13(1)(e) of P.C.Act, but one under Section 13(1)(d) of the P.C. Act against totally different persons.

18. Now, the question that looms large is, why did the petitioners pay Rs.7.5 Crores to Janaki? The answer to this question was admitted by both sides. Janaki (A5) / mother of A.Subbiah,IAS is the owner of 22 acres of land situated in the outskirts of Madurai. Even according to the CBI, as could be seen from the Statement-A appended to the FIR that the said land was acquired by Janaki (A5) in bits and pieces between 2002 and 2004 and they have been shown as Items 13 to 20. The check period in this case is between 30.04.2007 and 30.04.2012 and therefore, it is crystal clear that this 22 acres of land held by Janaki was acquired by her before the check period. The petitioners entered into an agreement of sale with Janaki (A5) on 25.11.2008 to purchase the land for a sum of Rs.8.25 Crores. The land is classified as agricultural land and Janaki had agreed to make necessary applications before the Revenue authorities for converting the land into an Industrial Use zone on or before 31.12.2011. Towards the purchase of this land, these petitioners had paid Rs.7.5 Crores to Janaki on various dates, as shown in the tabular column above. It appears that this agreement had run into rough weather as Janaki was unable to have the land converted to industrial zone and that resulted in initiation of arbitration proceedings by these petitioners against Janaki. A retired District Judge was appointed as Sole Arbitrator in July, 2012 and the Arbitrator passed an award on 02.08.2012 directing Janaki to return the amount of Rs.7.5 Crores with 6% interest to the petitioners. Based on the award passed by the Arbitrator, the petitioners have filed a petition E.P.No.50 of 2012 before the District Court, Kancheepuram and have obtained some orders of attachment.

19. Mr.G.R.Swaminathan, learned ASG emphatically stated that, it is not CBI's case that Janaki is the Binamidar of A.Subbiah, in respect of the 22 acres of land in question, because even according to them, the property was purchased by Janaki prior to the check period. If that is so, then the attempt by these petitioners to purchase that property from Janaki (A5) by paying Rs.8.25 Crores may not amount to abetment of the offence under Section 13(1)(e) of the P.C.Act committed by A.Subbiah, IAS (A1).

20. Mr.G.R.Swaminathan, learned ASG's contention is that Janaki's property will not fetch a whooping price of Rs.8.25 Crores and in order to curry favours from A.Subbiah, IAS, these petitioners have come forward to purchase that land at such an exorbitant price from Janaki. To buttress this submission, Mr.G.R.Swaminathan submitted that M/s.V.V.Minerals, owned by these petitioners is the largest exporter through Tuticorin Port Trust, where A.Subbiah, IAS was the Chairman between 30.04.2007 and 30.04.2012. Therefore, he submitted that the sale agreement between petitioners and Janaki and the subsequent arbitration proceedings are smoke screen to give pecuniary advantage to A.Subbiah, IAS for getting favours.

21. No material was placed before me to even come to this subjective inference that these petitioners had obtained some favours from A.Subbiah, IAS during 2004 and 2012. It was admitted by both sides that when Vaikundarajan (A6) appeared before the Investigating Officer on 10.05.2013, he submitted copies of all documents relating to the sale agreement of Janaki, arbitration proceedings and E.P. proceedings. The Investigating Officer Mr.L.S.Padma Kumar, Additional Superintendent of Police had also given a receipt dated 10.05.2013 evidencing receipt of those documents from Vaikundarajan.

22. In order to satisfy myself, I called upon Mr.G.R.Swaminathan, learned ASG to furnish a copy of the statement recorded by the CBI from Jayaraman (A2) (brother of A.Subbiah, IAS and son of Janaki), who was arrested on 17.10.2014. Mr.G.R.Swaminathan, after consulting the CBI officials present in the Court, informed that the CBI had not recorded any statement from Jayaraman, This did surprise me, because it is a normal practice of the Police to record the statement of the arrested accused, so that new facts could be discovered, which would become admissible under Section 27 of the Indian Evidence Act. This is the underlying principle in custodial interrogation, as held by the Supreme Court in State Rep. By the CBI vs. Anil Sharma, (1997) 7 SCC 187 as under:

> "6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated."

Strangely the CBI has not recorded any statement from the accused. For a moment, I am not saying that law mandates upon them to record a statement and it is well within their discretion either to record or not. It is not even necessary to record it in the form of a narration. It would be more than sufficient if there are notings in the case diary about hitherto unknown facts implicating Vaikukndarajan (A6) and Jegadeesan (A7). The case in R.C.No.55 of 2012, which is under investigation is not one under Section 13(1)(d), but under Section 13(1)(e) of the P.C. Act. Therefore, relief of anticipatory bail to these petitioners cannot be denied in this case on the score that M/s.V.V.Minerals had used the Tuticorin Port Trust service during the tenure of A.Subbiah, IAS and he would have used his official position to serve the interest of M/s.V.V.Minerals for which these petitioners had entered into an agreement with A.Subbiah's mother for purchasing a worthless land at a fancy price. Such an inference is highly preposterous without supporting materials especially when the FIR has been registered way back in 2012.

23. Mr.G.R.Swaminathan, learned ASG produced the statement of affairs and cash flow statement for the year 2010-2011 that was submitted by Vaikundarajan (A6) with the Income Tax authorities and pointed out that in the former statement, he has shown Rs.1.25 Crore as payment made to Janaki (A5) and in the latter statement, some amount is being shown as advance to the Port Trust. Based on this, he pointed out that a sum of Rs.1.25 Crore is actually illegal ratification for A.Subbiah, IAS. But, according to the CBI, the sum of Rs.1.25 Crores has been paid by cheque to Janaki (A5). Even accepting the contention of learned ASG, the inflow of this money into the kitty of Janaki (A5) during the check period will undoubtedly add to the disproportionate assets by A.Subbiah, IAS. This entry in the Income Tax statement of Vaikundarajan will not in any way cause prejudice to the CBI's accusations against A.Subbiah in the disproportionate assets's case. If in the future, the CBI is able to unearth credible materials to show that special favours were shown by A.Subbiah, IAS to M/s.V.V.Minerals and as quid proquo, the petitioners had paid the sum of Rs.8.25 Crores to A.Subbiah, IAS's mother for a worthless land, then it is always open to the CBI to register a fresh case and conduct investigation and this anticipatory bail order will not be enure to the advantage of these petitioners in that case.

24. Mr.G.R.Swaminathan, learned ASG has relied upon the following judgments to drive home points that custodial interrogation of these petitioners is essential in this case:

i) State rep. by the CBI vs. Anil Sharma, (1997) 7 SCC 187

ii) Hema Mishra vs. State of Uttar Pradesh and others, (2014) 4 SCC 453

25. I have no quarrel with the proposition laid down in those judgments and even in Hema Mishra's case (supra), the Hon'ble Supreme Court has relied upon a Constitution Bench's judgment in Gurbaksh Singh Sibbia vs. State of Punjab, reported in (1980) 2 SCC 565, wherein the Hon'ble Constitution Bench has stated as follows:

> "12.... A person who has yet to lose his freedom by being arrested asks for freedom in the event of arrest. That is the stage at which it is imperative to protect his freedom, insofar as one may, and to give full play to the presumption that he is innocent."

26. Very recently, the Hon'ble Supreme Court in Rakesh Baban Borhade vs. State of Maharashtra and another, reported in 2014 (13) Scale 93 has relied upon the judgment in the case of Siddharam Satlingappa Mhetre vs. State of Maharashtra and others, repoted in (2011) 1 SCC 694 and granted anticipatory bail to the petitioner therein.

27. To sum up,

a) the FIR is one under Section 13 (1)(e) of P.C.Act against the principal offender A.Subbiah, IAS, who has not been arrested so far and he is now the Secretary, IT Department, Government of West Bengal.

b) the FIR was registered in 2012 and we are now in 2015. During this period, even according to the CBI, these petitioners appeared before them in response to the notice under Section 160 Cr.P.C., whenever they were called upon and produced all the records in their custody.

c) It is not the case of the CBI that these petitioners are holding any property as Benamidars of A.Subbiah, IAS that was acquired by A.Subbiah,IAS during the check period. On the contrary, it is the case of the CBI that these petitioners had entered into a sale agreement with the mother of A.Subbiah, IAS for purchasing her property that was acquired by her prior to the check period.

d) In a disproportionate assets' case, most of the materials are borne out by records.

e) The CBI closed the case in R.C.No.34 of 2011 and collected all the records back from the Special Court.

f) These petitioners had also handed over to the CBI all the records that were sought by them.

g) Even Jayaraman (A2), the arrested accused, had not implicated these petitioners in this offence.

28. When this Court expressed its mind that it is inclined to grant the relief to the petitioners, Mr.G.R.Swaminathan, learned ASG produced an FIR that was registered on 23.12.2014 by the local Police (Otthakadai Police) in Cr.No.591 of 2014 under Section 294(b) IPC against unnamed, but identified persons, on the complaint of Mr.Mohamed Imranullah, a Hindu reporter. It appears that when these anticipatory bail petitions

were posted for hearing on 22.12.2014, a group of persons had manhandled Mr.Mohamed Imranullah in the court premises, following which, he has lodged this complaint. Mr.G.R.Swaminathan, learned ASG produced a copy of the FIR to emphasize that the petitioners herein are very influential persons and that when they are capable of manhandling a press man in the Court premises, it would lead to the inference that they would also tamper with the evidence in this case.

29. Manhandling a press man, who comes to the Court to perform his duty is undoubtedly a despicable and condemnable act. Stifling of the press would lead to fall of democracy. It has now become a culture for minions to indulge in such vandalism, when Court verdicts are rendered against their masters and leaders. Can overzealous acts of those in the lower rank be a ground for denying bail or anticipatory bail to their master? Very recently, the Former Chief Minister was convicted in Bangalore and there was vandalism, but that did not deter the Hon'ble Apex Court from granting bail to her, for, Courts of law are expected to take decisions only on the facts obtaining in the case on hand and not be influenced by extraneous happenings. If during investigation of the case in Crime No.591 of 2014, it comes to light that Vaikundarajan and Jegadeesan were involved, the law should and will catch up with them.

30. In the result, these Criminal Original Petitions are allowed. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Special Court for CBI Cases, Madurai, on condition that each of the petitioner shall execute a bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

[a] the petitioners shall report before the respondent police twice a day daily at 10:30 in the morning and 06:30 in the evening for a period of four weeks and thereafter as and when required for interrogation.

[b] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[c] the petitioners shall not abscond either during investigation or trial.

[d] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].**

31. I am aware that while deciding bail petitions, the Court should not conduct roving enquiry into materials collected during investigation and should not give any finding that would cause prejudice to the prosecution case. Since these are second anticipatory bail petitions, I felt it is imperative to pass a detailed order with reasons, for, reasons are the soul of judicial pronouncement and there are subject to review by Superior Courts. Whatever that has been observed in this order is only for the limited purpose of deciding these petitions for anticipatory bail and shall not in any way affect the ongoing prosecution.

sd/-
07/01/2015

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)

TO

1 THE SPECIAL JUDGE, SPECIAL COURT FOR CBI CASES, MADURAI.

2 THE SPECIAL PUBLIC PROSECUTOR FOR CBI CASES,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

3 THE INSPECTOR OF POLICE, CENTRAL BUREAU OF INVESTIGATION,
ANTI OCRRUPTION BRANCH, CHENNAI.

+4. CC to M/S.R.ANAND Advocate SR.No.874 & 875

ORDER IN
CRL OP(MD)Nos.23176 & 23177 of 2014
Date :07/01/2015

PBK 12/01/2015 ::10P-8C: