



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

Thursday, the Thirty First day of March Two Thousand Sixteen

PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP(MD) No.1404 of 2016

K.GANESAN

... PETITIONER/ACCUSED NO.A1

Vs

STATE THROUGH
THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH, PUDUKOTTAI DISTRICT
(CRIME NO. 16 OF 2015) ... RESPONDENT/ COMPLAINANT

For Petitioner : M/S.V.KATHIRVELU, SENIOR COUNSEL FOR
M/S.J.ANANDKUMAR Advocate
For Respondent : M/S.A.P.BALASAOUBRAMANI,
Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

Reserved on	Pronounced on
28.03.2016	31.03.2016

P.N.PRAKASH, J.

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 120(B), 409, 420 465, 468, 471 and 477(A) IPC in Crime No.16 of 2015 on the file of the respondent police, seeks anticipatory bail.

2. Heard learned Senior Counsel for the petitioner and learned Government Advocate (Crl.Side) appearing for the State.

3. This is second anticipatory bail petition and the first petition in Crl.O.P.(MD) No.18913 of 2015 was dismissed by this Court on 17.11.2015.

4. On the complaint lodged by Deputy Director of Health Services, Pudukottai, the respondent police registered a case in Crime No.16 of 2015 for offences under Sections 120(B), 409, 420 465, 468, 471 and 477(A) IPC on 15.10.2015 against this petitioner and three others.



5. The facts of the case has been set out in Paragraph Nos.1 and 2 of the status report filed by the Investigation Officer, which is as follows:

"1. I respectfully submit that one Dr.Arunkumar, MBBS, Deputy Director of Health Services, Pudukkottai lodged a complaint against one K.Ganesan misappropriated the government fund sent by the central government by filing huge amount on the 26 cheques without the knowledge of the complainant and sent the cheques for collections in his personal bank account to the tune of Rs.1,17,03,695/- and cheated in between 01.02.13 and 20.10.14.

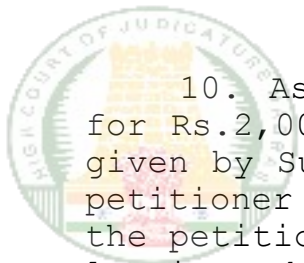
2. I respectfully submit that on 7.10.15, 8.10.15 and 14.10.15, a preliminary enquiry was conducted on the complaint. During enquiry the above said K.Ganesan confessed about the filing of huge amount on the 26 cheques in his hand writing and compared with connected records such as cash book and cheque issued register. On verification, he manipulated in the records that the excess of the amount was given to the 7 Block Primary Health Centres, but the amount has not been given to the above said 7 PHCs. Accused K.Ganesan himself prepared the cash book. Based on the complaint of the Dr.Arjunkumar, Deputy Director of Health Services, Pudukkottai, a case was registered in Pudukkottai District Crime Branch Cr.No.16/15 u/s 120(B), 409, 420, 465, 468, 471, 477(A) IPC on 15.10.15 against K.Ganesan, Selvam, Luyeesasgrace and Gangadaran."

6. Mr.K.Kathirvelu, learned Senior Counsel for the petitioner submitted that the accused had failed to place several important facts in his favour, when the earlier petition was argued. He further submitted that the petitioner was Superintendent in the Department at the relevant point of time and he was not the cheques signing authority. He also submitted that if the petitioner had really manipulated the entry in the cheque leaves, it would not have gone unnoticed by the Administrative Officer and the Deputy Director of Health Services, who are Officers empowered to sign the cheques.

7. At the first blush, the argument of the learned Senior Counsel did sound plausible and therefore, this Court called the defacto complainant to appear before this Court with the impugned cheques and relevant documents.

8. On 24.03.2016, Dr.Arunkumar, Deputy Director of Health Services, Pudukkottai appeared before this Court and produced the cheques and relevant records.

9. It is the case of the prosecution that the petitioner as Superintendent was in control of account books and cheque leaves and it was his duty to fill up the cheque leaves and place them before the cheque signing authority, namely, Administrative Officer and the Deputy Director of Health Services together with the supporting vouchers for the payments.



10. As sample, this Court perused the cheque dated 13.02.2013 for Rs.2,00,240/-. In support of this payment, there is a cash bill given by Sun Paper Store for purchase of three box of papers by the petitioner on 13.02.2013 for a sum of Rs.420/-. For this expense, the petitioner has drawn the cheque dated 13.02.2013 for Rs.420/- by leaving adequate space in the words column and numerals column. The cheque and the voucher for Rs.420/- appear to have been placed before the cheque signing authorities and they have signed the cheque for Rs.420/-. Thereafter, the petitioner has added the words "Two Lakhs" and "2,00" in the numerals column thereby he has withdrawn Rs.2,00,420/- as against Rs.420/-. In the cash book, he has made double entries in respect of the cheque dated 13.02.2013 in the following manner:

Supt.	073513	DPMU	420
Transfer to	073513	JBY	2,00,000
All BPHS			

11. The cash book entry will naturally tally with the entries in the Bank Passbook and everyone will believe that the sum of Rs.2,00,000/- has been paid for licit purpose. In this manner, the petitioner has swindled Rs.1,17,03,695/- of Government money systematically over a period of time, which came to light only after his retirement from service, when Dr.Arunkumar, Deputy Director of Health Services, Pudukottai started scrutinizing and reconciling the accounts.

12. Mr.Kathirvelu, learned Senior Counsel for the petitioner submitted that during enquiry, the petitioner appeared before the respondent police and had co-operated in the investigation. This is admitted by the respondent police in the counter, wherein they have stated that they had conducted preliminary enquiry, during which time, the petitioner appeared and even admitted his guilt. After the case was registered, he has gone into hiding and has been applying for anticipatory bail.

13. Taking into consideration the nature of allegations against the petitioner, this Court is of the view that it is not a fit case to grant anticipatory bail to the petitioner. Hence, this Criminal Original Petition stands dismissed.

sd/-

31/03/2016

/ TRUE COPY /

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

TO

1.THE ADDITIONAL PUBLIC PROSECUTOR

MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

2.THE INSPECTOR OF POLICE,DISTRICT CRIME BRANCH,

PUDUKOTTAI DISTRICT

RL/3C/3P/SKS/RR/ARI/5/4/2016

ORDER

IN

CRL OP(MD) No.1404 of 2016

Date :31/03/2016