

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 24.03.2017

CORAM

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

CRL.O.P.No.6117 of 2017

Mr.Kalanithi Maran

.. Petitioner

Versus

The State by

The Deputy Superintendent of Police,
CBI, STF,
New Delhi

.. Respondent

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C. to permit the petitioner to furnish bond in C.C.No.12 of 2017 pending on the file of the learned XIV Additional Special Judge, for CBI Cases, Chennai.

For Petitioner : Mr.AR L.Sundaresan
Senior counsel

for M/s.M.Sneha

For Respondent : Mr.K.Srinivasan

Special Public Prosecutor,
CBI Cases.

O R D E R

Invoking the provisions of Section 482 Cr.P.C., this petition is filed by the petitioner seeking a direction to the learned XIV Additional Special Judge, for CBI Cases, Chennai to obtain his personal bond to ensure his appearance in future hearings in the criminal case in C.C.No.12 of 2017 on the file of the above said Court.

2. Heard Mr.AR L.Sundaresan, learned Senior counsel appearing on behalf of M/s.M.Sneha, learned counsel on record for the petitioner and Mr.K.Srinivasan, learned Special Public Prosecutor, CBI Cases for the respondent.

3. It is manifested from the available materials that the petitioner herein has been arraigned as the 7th accused. He has received summons from the XIV Additional Special Judge, for CBI Cases, directing him to appear on 01.04.2017 before the said Court to answer for the charges under Sections 120-B, 409, 467,

471, 477-A of IPC and Section 13(1)(c) and (d) of Prevention of Corruption Act, 1988 in connection with the case in C.C.No.12 of 2017.

4. With reference to this, Mr. AR L. Sundaresan, the learned senior counsel has submitted that the petitioner was put to understand that in respect of the case in C.C.No.12 of 2017, a preliminary enquiry was conducted during the year 2011 and thereafter, the First Information Report was registered in the year 2013 and after the completion of the investigation, now the respondent police has filed the charge sheet after the inclusion of the petitioner as 7th accused. Mr. AR. L. Sundaresan has maintained that the petitioner was not named in the First Information Report and even during the course of investigation also his name was not specified anywhere and for the first time his name has been mentioned in the final report.

5. The learned senior counsel has also added that the petitioner has nothing to do with the alleged offence as he is innocent and that indeed he is a law abiding citizen and carrying on his own business lawfully in a peaceful manner and under this circumstance, he happened to receive the summons from the above said Court directing him to make his appearance on 01.04.2017.

6. While advancing his argument, the learned senior counsel has drawn the attention of this Court to the provisions of Section 88 of the Code of Criminal Procedure. Section 88 deals with the power to take bond for appearance. Section 88 Cr.P.C reads as under:

"88. Power to take bond for appearance.- When any person for whose appearance or arrest the officer presiding in any court is empowered to issue a summons or warrant, is present in such court, such officer may require such person to execute a bond, with or without sureties, for his appearance in such court, or any other court to which the case may be transferred for trial."

7. From the languages couched in the above said section, this Court understands that when any person, who is summoned to make his presence in any Court, makes his presence in such Court, the presiding officer, who is empowered to issue such summons or warrant, may require such person to execute a bond with or without sureties for his appearance in such Court or any other Court to which the case may be transferred for trial.

8. In the given case on hand, the petitioner is summoned by the XIV Additional Special Judge, for CBI Cases, Chennai to make his presence on 01.04.2017 to answer the charges as aforesaid in connection with the case in C.C.No.12 of 2017. In this connection Mr. AR. L. Sundaresan has submitted that when

the petitioner, in obedience of the summons issued by the XIV Additional Special Judge, makes his presence on 01.04.2017, the learned XIV Additional Special Judge, for CBI Cases, Chennai may be directed to follow the procedures enunciated under Section 88 of the Code of Criminal Procedure to obtain a bond from the petitioner for his appearance in the said Court with or without sureties.

9. It is to be noted that the discretion is vested with the presiding officer to require such person to execute a bond with or without sureties. Further, the learned senior counsel has fairly submitted that the petitioner is ready and willing to execute his personal bond to the tune of Rs.1,00,000/- with two sureties each for a like sum to the satisfaction of the learned XIV Additional Special Judge, for CBI Cases by way of assurance for his future appearance in the said Court. The learned senior counsel has also made reference to the order of the Division Bench of this Court dated 22.09.2014 and made in the Criminal Appeal Nos. 1342 of 2004 and batch (Kumar Vs. State of Tamil Nadu). In the above said order, Paragraph Nos.13 and 16 (d) are very much relevant.

10. In paragraph No.13, the Division Bench has issued a direction to all the Magistrates in the State of Tamil Nadu to strictly follow the direction issued by the Supreme Court in Indian Bank Association and Others Vs. Union of India and Others reported in (2014) 5 Supreme Court Cases 590. The Division Bench has also directed the Judicial Magistrates and other Presiding Officer in the State of Tamil Nadu to obtain a bond under Section 88 Cr.P.C in all cases, both summons and warrant cases, where an accused who has not been arrested and released on bail, appearance before the Court on summons. It is to be noted here that this includes even cases under the Prevention of Corruption Act.

11. In Paragraph No.16, the Division Bench has specifically observed that "Before parting, we direct all the trial Court in the State of Tamil:

(a).....

(b).....

(c).....

(d) to obtain a Bond under Section 88 Cr.P.C, '73 from the accused who was not arrested and released on bail, both in summons case and warrant case."

12. Mr.K.Srinivasan, the learned Special Public Prosecutor for CBI Cases, has also fairly submitted that there might be a direction to the learned XIV Additional Special Judge, for CBI Cases, Chennai to follow the procedure enunciated under Section 88 of Cr.P.C when the petitioner makes his appearance on 01.04.2017 in obedience of the summons issued on him.

13. This Court has perused the averments of the petition as well as the relevant materials available on record.

14. Having regard to the relevant facts and circumstances, this Court is of the considered view that a direction, as sought for by the petitioner, may be given to the learned XIV Additional Special Judge, for CBI Cases, Chennai.

15. Accordingly, XIV Additional Special Judge, for CBI Cases, Chennai is directed to obtain a personal bond from the petitioner to the tune of Rs.1,00,000/- with two sureties, each for a like sum to his satisfaction (to the satisfaction of XIV Additional Special Judge, for CBI Cases, Chennai) for his appearance in his Court in future hearings.

With the above direction, this Criminal Original Petition is disposed of.

s/d-

Assistant Registrar(CS-VII)

True Copy

Sub-Assistant Registrar

gpa

To

1. The Deputy Superintendent of Police,
CBI, STF,
New Delhi.
2. The Public Prosecutor,
CBI Cases,
Chennai.

+1cc to M.Snekha, Advocate SR.No.18465

CRL.O.P.No.6117 of 2017

GN(24/03/2017)

WEB COPY