

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Cont.P.No.917 of 2017

T.D.Naidu

.. Petitioner

Vs.

Mr.A.Murugesan,
The Superintendent of Prison,
Central Prison-II,
Puzhal, Chennai.

.. Respondent

Contempt Petition filed under Section 11 of the Contempt of Courts Act to punish the respondent for contempt of deliberate violation of this Court's order dated 27.04.2017 in CrI.O.P.No.6825 of 2017 and also direct the respondent to pay compensation to the petitioner as may be fixed by this Court.

For Petitioner : Mr.A.V.Somasundaram

For Respondent : Mr.Rajarathinam, Public Prosecutor

ORDER

Since the petitioner/accused was arrested and remanded to judicial custody on 07.05.2015 for the alleged offences punishable under Sections 3 and 4 of the Prevention of Money Laundering Act, he filed CrI.O.P.No.6825 of 2017 seeking bail.

2. According to the prosecution, the petitioner, who is the Dean of D.D. Medical College, Tiruvallur, is alleged to have collected nearly Rs.45 lakhs from the students, without obtaining necessary permission from the Medical Council of India.

3. This Court, by order dated 27.04.2017, granted interim bail to him with conditions so as to enable the accused to take treatment. Since the respondent has not complied with the order and there is clear deliberate disobedience of the said order of this Court, this Contempt Petition has been filed.

4. Learned counsel for the respondent submitted that the petitioner was directed to be released on interim bail on certain conditions and that the accused ought to have furnished the details as stipulated in paragraph 6(2) of the said order dated 27.04.2017 while granting interim bail initially and that the communication has been given to the accused by proceedings dated 02.05.2017 of the Superintendent of Central Prison-2, Puzhal, Chennai regarding compliance of conditions to be complied with by him, but the said communication was received by the accused only on 18.05.2017.

5. It is further submitted by the learned Public Prosecutor that the allegation that there is wilful

disobedience by the respondent, is not correct and that there are several persons who have met the accused in the Prison, as could be seen from paragraph 9 of the counter affidavit dated 23.06.2017 filed by the prosecution.

6. It is submitted by the learned Public Prosecutor that inspite of the fact that the accused has met the Advocate and friends, no steps have been taken to comply with the conditions without which the accused could not be sent out. It is further submitted that the respondent-Police was keen in implementing the order of this Court in letter and spirit.

7. It is the case of the accused that the respondent has not complied with the conditions. This Court, on 06.06.2017, cancelled the interim bail granted to the accused and observed that the accused shall be taken to Agarwal Eye Hospital, Chennai, by the Enforcement Directorate within a period of one week from the date of the order, by following procedures for escorting the accused.

8. Learned counsel for the petitioner submitted that unless there is some one to assist him, the accused will not be in a position to move around.

9. Learned counsel for the petitioner relied on two bail orders of this Court relating to Enforcement

Directorate, passed by this Court in CrI.O.P.Nos.20423, 20454 and 20581 of 2016, dated 05.05.2017 and CrI.O.P.Nos.7146, 7178 and 7204 of 2017, dated 12.05.2017 with regard to the money laundering issue and hence, learned counsel prayed that the same benefit shall be extended to the petitioner.

10. In reply, Mr.G.Rajagopal, learned Additional Solicitor General appearing for the Enforcement Directorate stated that the interim bail was cancelled by this Court on 06.06.2017 and that nearly Rs.150 crores is identified and that the property of the accused worth approximately Rs.105 crores had been attached now. He further submitted that the investigation is on and that granting bail to the accused may not be conducive to the present situation.

11. It is submitted by the learned counsel for the petitioner in the contempt petition that the respondent had not complied with the order and hence, the respondent will have to be proceeded with for deliberate disobedience of the order of this Court.

12. Taking note of the above submissions learned counsel for the parties, more particularly, the submission of the learned Public Prosecutor, it is seen that there is a specific direction by this Court for the accused to furnish the details as could be seen from paragraph 6(2) of

the order dated 27.04.2017 and the same has not been furnished by him. It is not the case of the accused that the details have been furnished and even thereafter, he has not been allowed to go on interim bail. The issue has also not been raised in the pleadings.

13. That apart, as referred supra, more particularly, in paragraph 9 of the counter affidavit, several persons including friends and Advocates have met the accused, but no one has evinced any interest and advised the accused to give a letter/complaint with regard to compliance of paragraph 6(2) of the interim bail order granted by this Court on 27.04.2017. Even the communication allegedly sent by way of Lawyer's notice, does not contain any details.

14. It is to be noted that the Apex Court has held that in contempt proceedings, the Court must be very slow in punishing the person against whom the charge of wilful disobedience is made.

15. In this case, prima-facie, there is non-compliance of paragraphs 6(2) of the said order dated 27.04.2017 by the accused and it cannot be said that there is wilful disobedience. Hence, this Court is not accepting the plea of contempt said to have been committed by the respondent.

16. For the reasons stated above, the Contempt Petition is dismissed.

17. The fresh bail petition filed by the petitioner/accused in CrI.O.P.No.11482 of 2017 is pending and directed to be listed before this Court on 28.06.2017 at 2.15 p.m.

sd/.23.06.2017

JOINT REGISTRAR (O.S) I/C

//Certified to be true copy//

Dated at Madras this the day of 2017.

COURT OFFICER(O.S.)

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1. The Deputy Director, Directorate of Enforcement,
Government of India,
No.84, Greams Road,
Chennai-600 006 (F.No.ECIR/CEZO/13/2013)
2. The Public Prosecutor, High Court, Chennai.
3. The Superintendent of Prison,
Central Prision-2,
Puzhal, Chennai.
4. The Section Officer,
Criminal Section,
High Court, Madras
+1 CC to PP (SR.No.7003/2017)