



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

Thursday, the Sixteenth day of November Two Thousand Seventeen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP (MD) Nos.14194, 14290,14472 and 14476 of 2017

1 P.I.JAMBERT MATHURAM

2 M/S.IMMANUEL & CO.,

REP BY SHRI.P.I.JAMBERT MATHURAM

... PETITIONERS / ACCUSED Nos.1 & 2
in CRL OP (MD) No.14194/2017

J.BLESSI SORNA RACHEL

... PETITIONER / 4th ACCUSED
in CRL OP (MD) No.14290/2017

J.MERITA

... PETITIONER / 5th ACCUSED
in CRL OP (MD) No.14472/2017

M.PITCHIAH

... PETITIONER / 3rd ACCUSED
in CRL OP (MD) No.14476/2017

Vs

THE STATE REPRESENTED BY

THE INSPECTOR OF POLICE

CBI/ACB/CHENNAI,

CRIME NO. RC MA1 2017 A0023 OF 2017

... RESPONDENT / COMPLAINANT
IN ALL THE PETITIONS

For Petitioner : Mr.B.KUMAR, Senior Counsel for

Mr.C.SUSI KUMAR Advocate in CRL OP (MD) No.14194/17

Mr.P.WILSON, Senior Counsel for

Mr.M.SUBASH BABU, Advocate in CRL OP (MD) No.14290/17

Mr.JEYARUTHRAN Advocate for Mr.C.AJAYKOSE

IN CRL OP (MD) No.14472/17

Mr.R.P.MARTHANDAN, Advocate in CRL OP (MD) No.14476/17

For Respondent : Mr.S.JEYAKUMAR, Special Public Prosecutor for
CBI Cases in all the petitions

For Intervenor : Mr.VISHNUVARTHANAN, Advocate
in all the petitions

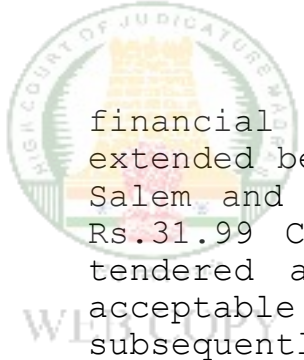
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-



police for the offences punishable under Section 120(b) r/w. Section 420 I.P.C. and Section 13(2) r/w. Section 13(1)(d) of the Prevention of Corruption Act, 1988, in Crime No.RC MA1 2017 A0023 of 2017, on the file of the respondent police and hence, seek anticipatory bail.

2.The case of the prosecution is that based on the sources of information report, the abovesaid case was registered by the CBI against [1] Shri. P.I.Jambert Mathuram (A1), Managing Partner of M/s.Immanuel & Co., Tuticorin and [2] M/s.Immanuel & Co. (A2), Represented by P.I.Jambert Mathuram, No.4/136-C/1, Harbour Express Road (Near Fisheries College), Tuticorin - 628 008, Tamil Nadu and unknown public servants of the V.O.Chidambaranar (V.O.C.) Port Trust, Tuticorin and unknown private persons on the ground that during the period 2014-2017, Shri. P.I.Jambert Mathuram, Managing Partner of M/s.Immanuel & Co., Tuticorin, entered into a criminal conspiracy with unknown public servants of V.O.Chidambaranar (V.O.C.) Port Trust, Tuticorin and unknown persons and in pursuance of the said conspiracy, contracts were awarded to M/s.Immanuel & Co., Tuticorin, by the public servants of V.O.C. Port Trust by abusing their official position, knowing fully well that he did not have the required experience/qualifications for being awarded the contract, effected sub-standard work, which was not as per specification and that the contracts were not completed as per the schedule, for which, no liquidated damages were claimed by the port officials in order to favour the firm, thereby, leading to wrongful loss to the VOC Port Trust and corresponding wrongful gain to themselves. Further, in the contracts that were awarded to M/s.Immanuel & Co., between 2014 and 2016, the project relating to widening and strengthening of South Breakwater approach road, contemplated and study conducted in the year 2011, estimated at Rs.13.14 Crores was awarded to M/s.Immanuel & Co., after the last date for receipt of tender was extended. The additional work, which was not a part of the contract was awarded to the Firm in spite of the fact that the work as per the schedule was not completed within a stipulated time and no liquidated damages were charged. Further, similarly, another contract, which pertains to widening and strengthening of VOC Port Road from TTPS Roundana (4 lanes to 6 lanes) at VOC Port Trust, the project study was conducted by M/s.Rites in 2011 and the estimated cost was Rs.13.92 Crores. Again, in the said contract, the agreement value was Rs.9,94,88,965/- and excess work was entrusted to the firm, which resulted in financial implications of Rs.38,88,170.20. In this contract also, the work was not completed as per the schedule and no liquidated damages were claimed. In another contract pertaining to construction of Truck Parking Terminal at Port Land Opp. to Fisheries College, Tuticorin, was completed in the year 2010 and the project study was done by M/s.COEUS Consultant, who had estimated the cost to be at Rs.26.31 Crores and the same was to be funded under Sagar Mala Project of the Government of India. Under this scheme, Oil Companies were also stakeholders and contribute 30% towards the project cost. The oil companies, viz., IOCL, HPCL and BPCL refrained from being part of the project and did not extend



financial contribution. In this contract also, the date was extended beyond the fixed date and two Firms viz., M/s.R.K. & Sons, Salem and M/s.Immanuel & Co., Tuticorin had submitted a quote of Rs.31.99 Crores and Rs.36.89 Crores respectively. It was re-tendered again, as the negotiations earlier, did not result in acceptable quote. M/s.Immanuel & Co., quoted Rs.23.69 Crores subsequently and was able to get the contract awarded. It is to be mentioned that some of the Firms attended the pre-bid meetings had submitted their quotations, which indicates that M/s.Immanuel & Co. had on the basis of favours shown by the public servants of VOC Port Trust, indulged in cartelization and prevented other contractors from competing for the tender. Further, a sub-standard work has been executed by using dredged materials obtained clandestinely with the help of Port Trust Officials for filling up the Truck Parking Terminal. Auctioning of the dredged material would have been a source of revenue for the Port Trust, but the public servants of the Port Trust allowed M/s.Immanuel & Co., by misusing their official position, to use the said dredged material and thereby causing a wrongful loss.

3.Mr.B.Kumar, learned Senior Counsel appearing for the petitioners in CrI.O.P.(MD)No.14194 of 2017/A1 and A2 submitted that the first petitioner in the Criminal Original Petition is the Managing Partner of the second petitioner company viz., M/s.Immanuel & Co., Tuticorin. In respect of the work relating to widening and strengthening of South Breakwater Approach Arm Road from 18m wide to 25.50m wide centre median from Green Gate to VOC Wharf Entrance at V.O.C. Port is concerned, there were 8 bidders participated in the tender, in which, the second petitioner company is the lowest bidder and therefore, the tender was given to the second petitioner company. In respect of the work relating to widening and resurfacing of VOC Road from TTPS Roundana to front portion of the Green Gate (Four lane to Six lane) in V.O.C. Port Trust is concerned, there were 11 bidders participated in the tender, in which, the second petitioner company is the lowest bidder and therefore, the tender was given to the second petitioner company. In respect of the work relating to appointment of EPC Contractor for Design and Construction and Maintenance of Truck Parking Terminal at the Port Land (52609 sq. m.) opposite to Fisheries College for V.O.C. Port Trust is concerned, there were 3 bidders participated in the tender, in which, the second petitioner company is the lowest bidder and therefore, the tender was given to the second petitioner company. The learned Senior Counsel further submitted that since the second petitioner company successfully completed the abovesaid works without any complaints and the bank guarantee furnished by the petitioners in the abovesaid contracts is still with the V.O.C. Port Trust, there is no monetary loss to the Port Trust. The learned Senior Counsel also submitted that the petitioners are innocents and they have been falsely implicated in this case and therefore, he prays for anticipatory bail in favour of the petitioners.

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4.Mr.P.Wilson, learned Senior Counsel appearing for the



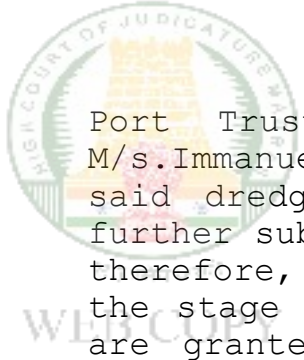
petitioner in Crl.O.P.(MD)No.14290 of 2017/A4 after narrating the entire facts, which was relied on by the learned Senior Counsel appearing for the petitioners in Crl.O.P.(MD)No.14194 of 2017, submitted that the petitioner, who is the daughter of the Managing Partner - P.I.Jambert Marutham, is residing at Chennai and she never participated in the day-to-day affairs of the company and she has nothing to do with the allegations as narrated by the CBI and therefore, he prays for anticipatory bail in favour of the petitioner.

5.Mr.Jeyarutham, learned counsel for the petitioner in Crl.O.P.(MD)No.14472 of 2017/A5 after narrating the entire facts, which was relied on by the learned Senior Counsel appearing for the petitioners in Crl.O.P.(MD)No.14194 of 2017, submitted that the petitioner is the wife of the Managing Partner - P.I.Jambert Marutham and she never participated in the day-to-day affairs of the company and she has nothing to do with the allegations as narrated by the CBI and therefore, he prays for anticipatory bail in favour of the petitioner.

6.Mr.R.P.Marthandam, learned counsel for the petitioner in Crl.O.P.(MD)No.14476 of 2017/A3 submitted that the petitioner is the Power of Attorney and the Department had given a completion certificate in two contracts and also having paid the Bill. Only 3rd contract, which is in progress, the respondent CBI without disclosing any source of information, registered the abovesaid case. Further, no documentary evidence enclosed in the FIR or any materials seized by them. Pursuant to the said case, the respondent conducted a search in the Firm's office as well as the Managing Partner's residence and no incriminating materials have been seized by the respondent to substantiate the allegations and therefore, the learned counsel prays for anticipatory bail in favour of the petitioner.

7.Mr.Vishnuvarthanan, learned counsel for the Intervenor in all the Criminal Original Petitions submitted that large scale of scandal has taken place in awarding the contract in the third project, and therefore, public interest litigation was filed before this Court and the same is pending and in the present case, the Director of V.O.C. Port Trust as well as the other Directors were also involved and therefore, he prays for dismissal of the Criminal Original Petitions.

8.Mr.Jayakumar, learned Special Public Prosecutor appearing for CBI Cases filed counter affidavits and submitted that none of the Firms attended the pre-bid meetings, had submitted their quotations, which indicates that M/s.Immanuel & Co., on the basis of favours shown by the public servants of VOC Port Trust, indulged in cartelization and prevented other contractors from competing for the tender. Further, a sub-standard work has been executed by using dredged materials obtained clandestinely with the help of Port Trust officials for filling up the Truck Parking Terminal. Auctioning of the dredged materials would have been a source of revenue for the



Port Trust, but the public servants of Port Trust allowed M/s.Immanuel & Co., by using their official position, to use the said dredged material and thereby causing a wrongful loss. He further submitted that the investigation is at preliminary stage and therefore, the C.B.I., is not in a position to reveal anything about the stage of the case. He also submitted that if the petitioners are granted anticipatory bail, they will abscond and tamper the witnesses and hamper the investigation process and the C.B.I. registered the case not only against the petitioners, but also the Port Trust Officials for the offences punishable under Section 120 (b) r/w. Section 420 I.P.C. including Section 13(2) r/w. Section 13 (1)(d) of the Prevention of Corruption Act, 1988, and therefore, he prayed for dismissal of the Criminal Original Petitions.

9.Heard both sides.

10.Considering the fact that the CBI registered the case against the Contractor as well as the Public Servants, who allegedly favoured the contract and executed sub-standard work by using dredged materials obtained clandestinely for filling up the Truck Parking Terminal and considering the submission of the learned Special Public Prosecutor appearing for CBI cases that now, the investigation is at preliminary stage and if anticipatory bail is granted to the petitioners, it will affect the progress of the investigation and considering the fact that the respondent police registered the case against the petitioners as well as the Port Trust Officials under the Prevention of Corruption Act and also considering the gravity of the alleged offence levelled against the petitioners and the monetary loss caused by them, I am not inclined to grant anticipatory bail to the petitioners. Accordingly, these Criminal Original Petitions are dismissed.

sd/-

16/11/2017

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Sub-Assistant Registrar (C.S.)

TO

1 THE INSPECTOR OF POLICE,CBI/ACB/CHENNAI,

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

+1. CC to Mr.C.SUSI KUMAR Advocate SR.No.34583
+1 CC TO Mr.C.AJAY KOSE, Advocate Sr.No.34582
+1 cc to Mr.M.CHANDRA BOSE, Advocate Sr.No.34581
+1 cc to Mr.M.SUBASH BABU, Advocate Sr.No.34580
+1 cc to Mr.P.M.VISHNUVARTHANAN, Advocate Sr.No.34594

JAM/24/11.17/CM/SAR 3 5p-8c

ORDER IN

<https://hcservices.ecourts.gov.in/hcservices/> CRL OP (MD) Nos.14194, 14290,14472 and 14476 of 2017
Date :16/11/2017