



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

Friday, the Twenty Third day of March Two Thousand Eighteen

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PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP (MD) No.3575 of 2018

V.MALAICHAMY

... PETITIONER / ACCUSED -3
IN CRL OP (MD) NO.3575/2018

1 C.KARTHIKEYAN

2 S.KIRUBHAKAR

... PETITIONERS/ACCUSED NO.1 & 2
IN CRL OP (MD) NO.3584/2018

Vs

STATE : REP.BY
THE DEPUTY SUPERINTENDENT OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
MADURAI DETACHMENT, MADURAI,
(CRIME NO.6/2018)

... RESPONDENT / COMPLAINANT
IN BOTH THE PETITIONS

For Petitioners : M/S.L.SHAJI CHELLAN Advocate
IN BOTH THE PETITIONS

For Respondent : MR.A.ROBINSON, Government Advocate (Crl. Side)
IN BOTH THE PETITIONS

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

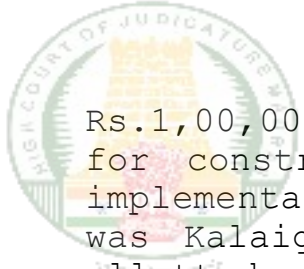
ORDER : The Court Made the following order :-

The petitioner/A3 in Crl.O.P(MD).No.3575 of 2018 and the petitioners/A1 and A2 in Crl.O.P(MD).No.3584 of 2018, who apprehend arrest at the hands of the respondent police for the alleged offences under Sections 120(b), 167, 420, 467, 468 and 471 I.P.C., and Sections 13(2)r/w 13(1)(c) and (d) of Prevention of Corruption Act, 1988, in Crime No.06 of 2018, seeks anticipatory bail.

2.The case of the prosecution is that there are some irregularities in the allotment of nine houses under Indira Awaas Yojana (IAY) Scheme in the year 2012-2013 at Seikkipatti Panchayat and the petitioners herein had violated the norms and failed to supervise it properly. Hence, a case has been registered for the above said offences.

<https://hcservices.ecourts.gov.in/hcservices/>

3.The learned counsel appearing for the petitioners submitted that under the IAY Scheme 2012-2013, a sum of



Rs.1,00,000/- has been given to the poor and downtrodden people for construction or up-gradation of their houses. Before the implementation of IAY Scheme 2012-2013 in Madurai District, there was Kalaigiar Veedu Valangum Thittam (KVVT). Since the houses allotted under KVVT Scheme could not be completed due deficiency of funds, those beneficiaries were selected under IAY Scheme 2012-2013, through the proceedings of the District Collector in Na.Ka.No.232/2010/RHS dated 24.03.2012. He further stated that the Gram Sabha of Seikkipatti Panchayat identified nine beneficiaries and after documentation, resolutions were also passed for them. Accordingly, eligible funds were properly given to the nine beneficiaries through cheques jointly signed by the President (A3) and the Vice President. There is no irregularities or malpractices in the implementation of the IAY Scheme 2012-2013. He further submitted that the petitioners are innocent persons, they have been falsely implicated in this case. Hence, he prays for anticipatory bail to the petitioners.

4.The learned Government Advocate (Criminal Side) appearing for the State filed a counter affidavit stating that actually construction of 9 houses were not completed fully as per guidelines and bogus bills were also created. Accused No.1 in this case issued the work orders to the beneficiaries through Accused No.3. Further, the Accused Nos. 1 and 2 had not visited the spot during the construction of houses at Seikkipatti Village. Further, he stated that during the course of detailed enquiry, out of 9 houses, 4 house were constructed between 6 and 10 years, prior to 2016. Ineligible beneficiaries constructed their house prior to 2012-2013, their old houses were showed as if the houses were constructed under this scheme in the year 2012-2013. Hence, he vehemently opposed to grant of anticipatory bail to the petitioners.

5. The submissions made by the learned counsel appearing on either side are considered. On going through the averments made in the F.I.R., it would appear that in CrI.O.P.(MD).No.3584 of 2018, the first petitioner is a Block Development Officer and the second petitioner is an Overseer. The petitioner in CrI.O.P(MD). No.3575 of 2018 is a former President of Seikkipatti Panchayat. They allotted funds in favour of some beneficiaries, who constructed the house earlier, which was fixed in this scheme. The learned counsel appearing for the petitioners submitted that the petitioners herein are authorised persons to allot the funds under the IAY Scheme. Thereby, the allegations levelled by the prosecution is not at all valid with regard to the offence committed by the petitioners. Chapter-I clause 1.2 of Indira Awaas Yojana (IAY) reads as follows:

" The objective of the India Awaas Yojana is primarily to help construction/Upgradation of dwelling units of members of



Scheduled Castes/Scheduled Tribes, freed bonded labourers and other below the poverty line non-SC/ST rural house holds by proving them a lump sum financial assistance".

6. So the contention raised by the learned counsel appearing for the petitioners is substantiated by the above said clause. With regard to other allegations that the petitioners paid entire amount to the beneficiaries in single installment, the same may not be valid, because, the prosecution does not say anything that the said amount was received by third persons, who are not identified by the name to add as beneficiaries. Accordingly, for completing the investigation, the process of recovery may not arise. So, considering the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners. 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 Judge for Trial of Cases under Prevention of Corruption Act, Madurai, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(i) the petitioners shall report before the respondent Police daily at 10.00 until further orders.

(ii) the petitioners shall not tamper with evidence or witness either during investigation or trial.

(iii) the petitioners shall not abscond either during investigation or trial.

(iv) On breach of any of the aforesaid conditions, the anticipatory bail granted to the petitioners shall stand automatically cancelled and 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]**.

sd/-

23/03/2018

/ TRUE COPY /



1 THE SPECIAL JUDGE FOR TRIAL
OF CASES UNDER PREVENTION OF CORRUPTION ACT,
MADURAI.

2 THE DEPUTY SUPERINTENDENT OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
MADURAI DETACHMENT, MADURAI,

3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+2. CC to M/S.L.SHAJI CHELLAN Advocate SR.No.4781, 4780

GJM/PN/SAR-I-3.4.18-4P-6C

ORDER
IN
CRL OP (MD) No.3575 &
3584 of 2018
Date :23/03/2018