

Crl.O.P.Nos.15897 and 15899 of 2019
[THROUGH VIDEO CONFERENCING]

RESERVED ON : 14.08.2019

DELIVERED ON : 09.09.2019

M.SATHYANARAYANAN,J.
AND
T.RAJA,J.

COMMON ORDER

M.SATHYANARAYANAN,J.

The petitioners in Crl.O.P.No.15897 of 2019 are arrayed as A.2 and A.4 respectively and the petitioners in Crl.O.P.No.15899 of 2019 are arrayed as A.1 and A.3 respectively.

2. The first respondent has registered a case in Cr.No.134 of 2019 for the commission of the offences under Sections 409, 406 and 420 I.P.C., against Tvl.D.Jayakumar, Paul Pradeep Kumar @ Kutty, Antony Amaladoss and Samuel Wilson, on the basis of the complaint given by the second respondent - Personal Assistant to the Judge Administrator - the Honourable Mr.Justice K.Venkataraman, a retired Judge of this Court.

3. The case of the prosecution as culled out from the counter affidavit filed by the first respondent would disclose that A.1, namely, D.Jayakumar, connived with three other accused, namely, A.2 to A.4, had misappropriated the funds of the

Industrial Training Institute of Tamil Evangelical Lutheran Church [in short 'TELC'] and its properties. It is further alleged that A.1 had collected rents from the tenants of the properties of TELC at Dindigul and appropriated the same for his personal gain and he has not remitted the collected rent to the coffers of TELC. It is further alleged by the prosecution that A.1, namely, D.Jayakumar has leased out a Students' Hostel Block belonging to the I.T.I., of TELC at Dindigul in favour of Samual Wilson/A.4 for running a vermicelli factory and he has collected a sum of Rs.6,000/- (Rupees Six Thousand only) per month as rent and received a sum of Rs.1,00,000/- (Rupees One Lakh only) towards advance without any authority and that apart, he has also leased out a part of the property belonging to I.T.I., of TELC, Dindigul, for running a Smart Plus Academy and misappropriated the rent and advance collected for his own gain without any authority. A.1 - D.Jayakumar also illegally occupied TELC Quarters situated at I.T.I., TELC campus, Nagal Nagar, Dindigul and put up a compound wall around 40 cents of property as if it is his own property.

4. A.1 - D.Jayakumar in connivance with his staff, namely, A.3 - Antony Amaladoss has misappropriated the fees collected from the students of I.T.I., of TELC, Dindigul, during the year 2016-2018 and he has not produced any documents for the fees collected from the students during the year 2016-2018. A.2 - Paul Pradeep Kumar @ Kutty also threatened the Personal Assistant to the Judge Administrator over phone with dire consequences.

5. The learned Counsel for the petitioners in Crl.O.P.No.15897 of 2019/A.2 and A.4 would submit that A.1 had acted in the best interest of the institution namely, TELC and the allegations levelled against him are nothing but false and concocted and they are not involved in any criminal action either directly or indirectly and therefore, prays for enlargement on bail in the event of arrest.

6. The learned Counsel for the petitioners in Crl.O.P.No.15899 of 2019/A.1 and A.3 would submit that from the year 2013 onwards, the Government stopped the grant to the I.T.I., of TELC, Dindigul and therefore, A.1 - D.Jayakumar after taking over the charge of the Correspondent in the year 2015, leased out the properties and collected the advances and monthly rents and used the said amount for the day-to-day affairs and after his tenure, the monthly rent has been deposited directly in I.T.I. Insofar as the leasing out the property in favour of Smart Plust Academy is concerned, the monthly token rent of Rs.500/- (Rupees Five Hundred only) was collected and the same was also deposited in the name of TELC Institution and the second respondent continues to collect the said amount from the Smart Plust Academy. As regards the allegation that A.1 - D.Jayakumar is in possession of TELC Quarters and is treating the same as it is owned by him, he submitted that the previous Correspondent leased out the same in favour of his wife and as such, there is no illegality.

7. In sum and substance, it is the submission of the learned Counsel for the petitioners/A.1 to A.4 that they have nothing to do with the alleged acts of criminality stated against them in the complaint given by the second respondent on behalf of the Judge Administrator and in the event of their enlargement on bail in the event of arrest, they would fully co-operate with the Investigating Agency and will not abuse the liberty and also will not tamper the witnesses or hamper the investigation.

8. The learned Counsel for the petitioners/A.1 to A.4 has drawn the attention of this Court to the typed set of documents and would submit that the Former President, namely, Rt.Rev.Dr.H.A.Martin, was the President/Bishop of Tranquebar has authorised A.1 - D.Jayakumar by appointing him as Property Officer to deal with the properties of TELC at Dindigul, vide letter dated 09.01.2014 and the same has been confirmed by him vide his letter dated 26.12.2014 and therefore, it cannot be said that he has improperly dealt with the properties of TELC at Dindigul and being the true follower of the tenaments and principles of TELC, he always acted in the best interest of the institution.

9. It is further pointed out that the property of TELC was leased out in favour of A.4 - Samuel Wilson and alleging that he may be evicted without due process of law, filed a suit in O.S.No.190 of 2016 on the file of the District Munsif Court, Dindigul and pending disposal of the same, filed I.A.No.350 of 2016 and in the said suit, A.1 - D.Jayakumar has been arrayed as a defendant and in the main suit, the

defendant remained exparte and insofar as the property leased out in favour of his wife, namely, Nagamani Kalpana Devi, she filed a suit in O.S.No.138 of 2013 against the Manager of properties of TELC and Priest, namely, Marcos Mahadevan on the file of the Additional District Munsif Court, Dindigul and it was also decreed exparte on 15.09.2016 and since some civil rights of the properties are involved, it cannot be said that A.1 - D.Jayakumar is guilty of criminality and insofar as others are concerned, A.4 - Samuel Wilson is merely a tenant and except the fact that A.2 - Paul Pradeep Kumar @ Kutty happens to be his close relative, nothing can be stated against him and since the alleged offences pertain to documents, the same can be directed to be produced by the accused before the first respondent/Investigating Officer for the purpose of investigation and therefore, no custodial interrogation is necessary and prays for allowing these Criminal Original Petitions.

10. The learned Counsel for the petitioners/A.1 to A.4, in support of his submissions, has placed reliance upon the decisions in ***Gurbaksh Singh Sibbia v. State of Punjab*** reported in ***AIR 1980 SC 1632*** and ***Siddharam Satlingappa Mhetre v. State of Maharashtra*** reported in ***2011 (1) Supreme Court Cases 694.***

11. Per contra, Mr.C.Emalias, learned Additional Advocate General assisted by Mr.C.Iyyapparaj, learned Additional Public Prosecutor appearing for the first respondent has drawn the attention of this Court to the counter affidavit filed by the

first respondent on 06.08.2019 and would submit that though opportunities were provided to the accused who also appeared before the first respondent on 09.03.2019 and agreed to produce the documents, they did not produce the same and further pointed out that even after the appointment of the Judge Administrator, A.1 - D.Jayakumar continues to deal with the properties of I.T.I., of TELC, as if he is authorised to do so knowing pretty well that he lacks such authorisation and A.2 to A.4 actively connived with A.1 - D.Jayakumar.

12. It is the further submission of the learned Additional Advocate General appearing for the first respondent that in that process, huge amounts have been collected and utilised the same for their own personal gain and that apart, A.1 - D.Jayakumar illegally occupied 40 cents of property of TELC, Dindigul and put up a compound wall and converted as his house and taking into consideration the interest of the institution, namely, TELC, which is three centuries old and that the accused continue to interfere with the investigation by tampering with the evidence, their custodial interrogation is absolutely necessary and prays for the dismissal of both these Criminal Original Petitions.

13. The learned Counsel for the second respondent/intervenor/defacto complainant has invited the attention of this Court to the Memo filed by the Judge Administrator, TELC, dated 05.08.2019 and would submit that the Judge Administrator filed Contempt Petition No.783 of 2017 before this Court wherein series

of directions have been passed and further, has drawn the attention of this Court to the order dated 21.03.2019 made in Sub Application No.39 of 2019 in Contempt Petition No.783 of 2017 in L.P.A.Nos.3 and 5 of 2015 filed against A.1 - D.Jayakumar and four others and pointed out that this Court in exercise of contempt jurisdiction has considered the materials placed, especially, the inaction on the part of the Investigating Agency to act on the complaint, has passed an order directing the Superintendent of Police, Dindigul District, to file a status report as to the investigation of the case in Cr.No.134 of 2019.

14. It is the further submission of the learned Counsel for the second respondent/intervenor/defacto complainant that this Court, vide order dated 28.11.2018, made in Contempt Petition No.783 of 2017, has passed a detailed order, wherein at paragraphs 20 and 21, has recorded the fact that the fourth respondent therein, namely, A.1 - D.Jayakumar, has expressed his disinclination to co-operate with the Judge Administrator and failed to hand over the accounts despite his claim that he has spent a sum of nearly Rs.69,00,000/- (Rupees Sixty Nine Lakhs only) to pay the salary to the staff of TELC and despite very many opportunities were given, he has failed to do so. Accordingly, liberty was granted to the Judge Administrator to take appropriate action against A.1 - D.Jayakumar which resulted in lodging the present complaint.

15. It is further pointed out by the learned Counsel for the second respondent/intervenor/defacto complainant that though A.1 - D.Jayakumar claims that he was appointed as the Property Officer/Manager and Correspondent of TELC, Dindigul, by the President/Bishop, vide letters dated 09.01.2014 and 26.12.2014, his appointment was stayed by this Court vide order dated 07.09.2015 made in M.P.Nos.2 and 4 of 2015 in W.P.No.28055 of 2015 and therefore, he cannot claim to act in the said position and that apart, he has collected the rent amounts from the tenants of TELC, Dindigul and did not account for the same and in paragraph 6 of the Memo, dated 05.08.2019, the instances were quoted, in which, A.1 - D.Jayakumar along with the other accused had indulged in illegal activities and extracted the same, which read as follows:

"(i) The said Jayakumar has leased out a student's hostel block belonging to TELC ITI, Dindigul to one Sameuel Wilson who is a close relative of Jayakumar for running a vermicelli factory and thus has illegally occupied the same and in this regard, the said Jayakumar said to be collecting a rent of Rs.6,000/- per month and has also collected Rs.1,00,000/- as an advance to the same without any authority as per the alleged agreements entered into by him.

(ii) Secondly, the said Jayakumar has leased out a part of the property belonging to TELC ITI for running a smart plus academy and has misappropriated the rents and advance collected in this regard without any authority.

(iii) The said Jayakumar has illegally occupying the TELC quarters situated in TELC ITI Campus, Nagal Nagar, Dindigul and has encroached an extent of 40 cents and put up compound walls as if the same belongs to the said Jayakumar.

(iv) The said Jayakumar along with his staff Antony Amaladoss and Jothi Lakshmi has misappropriated the fees collected from the student of TELC ITI during 2016 - 2018 and has not rendered any proper accounts till date. The said persons have threatened all the students and other staffs with dire consequences and whoever raises a complaint have been loaded with false complaints under SC/ST Act along with sexual harassment complaints and also circulating pamphlets defaming and assassinating the personal character of the persons who stood against them.

(v) The said Jayakumar has handed over one of the TELC quarters situated at No.61, Mangles Road, Nagal Nagar, Dindigul to one Nagendran and till date has not produced any books of accounts towards its rent.

(vi) Further, the said Jayakumar has impersonated himself as the Property Officer of TELC and has rented out various shops situated in the ITI Shopping complex to various third parties and has given receipts.

(vii) The said Jayakumar has illegally used the water and electricity connection of the TELC ITI, Dindigul to his personal gains and also for running his vermicelli factory through his relative. Every month a huge amount of electricity bill amounting to Rs.18,000/- - Rs.20,000/- has been paid out of the TELC ITI for the usage done by the said Jayakumar."

16. It is the further submission of the learned Counsel for the second respondent/intervenor/defacto complainant that A.2 - Paul Pradeep Kumar @ Kutty has been instigated by A.1 - D.Jayakumar and he helped A.1 - D.Jayakumar in all illegal activities in mortgaging and encumbering the properties of TELC to third parties and under the garb of press reports, also threatened the persons who stood against him by publishing defamation articles and also threatened the present Correspondent of TELC, Dindigul, over phone claiming himself as a reporter of Tamil Magazine, "Netri Kann".

17. It is further pointed out that A.3 - Antony Amaladoss has also written an abusive letter to the learned Counsel representing the Judge Administrator and the said fact was also recorded by this Court vide order dated 24.01.2019 made in Sub Application No.39 of 2019 in Contempt Petition No.783 of 2017.

18. It is also pointed out by the learned Counsel for the second respondent/intervenor/defacto complainant that A.1 - D.Jayakumar has occupied more than 40 cents of properties of TELC, which is located in the prime area in Dindigul Town and also converted it for his personal and commercial use without any authority and therefore, made a submission that the custodial interrogation of all the accused is absolutely necessary to protect the valuable properties of TELC and prays for the dismissal of both these Criminal Original Petitions.

19. A.1 - D.Jayakumar - first petitioner in Crl.O.P.No.15899 of 2019 filed his reply, dated Nil, August 2019, denying the averments and reiterated the submissions made for grant of anticipatory bail.

20. This Court has paid it's best attention and anxious consideration to the rival submissions and also perused the materials placed on record.

21. This Court had appointed the Honourable Mr.Justice J.Kanakaraj, a retired Judge of this Court, as Judge Administrator of TELC, vide order dated 14.12.2010 made in C.R.P(MD)Nos.2385 and 2386 of 2010, along with Cont.P(MD)Nos.643 and 681 of 2010, wherein the Judge Administrator was clothed with all powers to deal with the administration and all affairs of TELC.

22. A Division Bench of this Court [M.SATHYANARAYANAN,J. and T.RAJA,J.] had disposed of L.P.A.Nos.3 and 5 of 2015 and Cont.P.No.1531 of 2015, by common order dated 07.12.2016 and challenging the same, the Special Leave Petition (Civil) No.13245 of 2015 was filed and when it was listed on 15.12.2017, the following order was passed:

"List on 30th January 2018.

In view of the affidavit dated 31.07.2017 filed by the Administrator, as recorded in the order dated 13.10.2017, till we decide the matter finally, we appoint Mr.K.Venkataraman [former Judge of the Madras High Court] as the interim Administrator."

and subsequently, it came to be disposed of on 30.11.2018 with the following directions:

1. *"The new Administrator in place of the earlier Administrator would continue to administer the Society till such time the elections are held in accordance with law.*
2. *The interim status quo order is lifted to facilitate the functioning of the Administrator.*
3. *Elections be held as expeditiously as possible.*
4. *The remuneration of the new Administrator taking into consideration the work and the efforts required shall be Rs.2,50,000/- [Rupees Two Lakhs Fifty Thousand only] per month apart from out of pocket expenses.*
5. *In case of any other directions required, parties/Administrator can approach the Madras High Court.*

The Special Leave Petition stands disposed of in terms of the aforesaid directions.

Pending application[s], if any, stand disposed of."

23. Special Leave Petition(C)No.17780 of 2017 filed by E.D.Charles, challenging the very same order, was also dismissed on 20.02.2018 and thereafter, the Honourable Mr.Justice K.Venkataraman, a retired Judge of this Court, who was appointed as Judge Administrator vide order dated 15.12.2017 (cited supra), assumed charge as Interim Administrator on 15.12.2017 itself and on disposal of the Special Leave Petition assumed charge as the Interim Administrator of TELC on 15.12.2017 itself and after disposal of the said Special Leave Petition, assumed charge as Judge Administrator on 30.01.2018.

24. This Court, in the order dated 28.11.2018, pendency of the Contempt Petition No.783 of 2017, in paragraph 20, observed that the fourth respondent therein - D.Jayakumar/A.1 is not inclined to co-operate with the Judge Administrator for the reason that he is yet to hand over the accounts despite his claim that he has spent a sum of Rs.69,00,000/- (Rupees Sixty Nine Lakhs only) to pay the salary to the staff and despite very many indulgences granted by this Court also, he is not inclined to do so and in the light of the conduct of the fourth respondent therein - D.Jayakumar/A.1, granted liberty to the Judge Administrator to take appropriate action against the fourth respondent - D.Jayakumar/A.1 and also against the persons, who had indulged in similar misdeeds or criminal misconduct alienating the immovable properties of TELC without prior authorisation/permission including lodging of criminal complaint to the Superintendent of Police, Dindigul District and accordingly, a complaint was lodged, based on which, Cr.No.134 of 2019 was registered by the first respondent.

25. It is also brought to the knowledge of this Court by the learned Counsel for the second respondent/intervenor/defacto complainant that A.1 and A.2 filed W.P(C)No.14315 of 2012 (L) on the file of the Kerala High Court, praying for issuance of a writ of Prohibition prohibiting the State of Kerala, represented by the Secretary, Department of Home Affairs, Government Secretariat, Thiruvananthapuram and the Superintendent of Police, Crime Branch, Ernakulam from harassing the petitioners by attempting to arrest them during the pendency of the order of the bail granted by

the Court of Additional Chief Judicial Magistrate, Ernakulam and it was disposed of by taking into consideration the submissions that C.B.C.I.D., is conducting the investigation and there is no proposal to arrest them and accordingly, closed the writ petition.

26. Though the petitioners claimed that they fully co-operated with the Investigating Agency and prepared to hand over the documents, the fact remains that they did not keep up their promise and the said fact was also recorded in the Contempt Petition No.783 of 2017, which has been extracted in earlier paragraphs.

27. It is to be noted at this juncture that the Honourable Mr.Justice J.Kanakaraj was appointed as the Judge Administrator as early as on 14.12.2010, vide order made in C.R.P(MD)Nos.2385 and 2386 of 2010, along with Cont.P(MD)Nos.643 and 681 of 2010 and still A.1 - D.Jayakumar has claimed that he has been appointed by the Bishop/President vide his letters dated 09.01.2014 and 26.12.2014. In the light of the said order, it was not open to the Bishop/President to appoint him as Property Officer and even for the sake of arguments, he has been appointed, it should be done by the Judge Administrator and not by the Bishop/President and therefore, this Court is having it's own doubt as to the legality or otherwise of the documents dated 09.01.2014 and 26.12.2014.

28. The petitioners in support of the present petitions had filed a typed set of documents containing certain documents and despite opportunities granted by this Court in Contempt Petition No.783 of 2017 and opportunities provided by the Judge Administrator as well as by the Investigating Agency, they did not produce the same and not at all co-operated with the Investigating Agency.

29. TELC was founded as a society under the Societies Registration Act, in the year 1919 and it consists of 120 Pastorates and Churches situated in Tamil Nadu, Andhra Pradesh, Karnataka and Pondicherry with more than one lakh members and 12 Boards of TELC are functioning under the Church Council. Besides, it also owns landed properties in various places in Tamil Nadu and the said fact was also recorded by this Division Bench in the order dated 29.04.2016 in L.P.A.Nos.3 and 5 of 2015 and it is relevant to extract the following details, which are available in Document No.10 of the typed set of documents, dated 30.07.2019, filed by the petitioners:

<i>Orphanages</i>	<i>No. of children receiving grant</i>		
<i>Pattukkottai (Girls)</i>	40		
<i>Kemps Town (Girls)</i>	122		
<i>Usilampatti (Girls)</i>	160		
<i>Porayar (Girls)</i>	65		
<i>Kinathukadavu (Girls)</i>	150		
<i>Tranquebar (Boys)</i>	150		
<i>Mayiladuthurai (Girls)</i>	135		
<i>Total</i>	862		
<i>Blind Schools</i>	<i>Technical Staff</i>	<i>Admn. Staff</i>	<i>Inmates</i>

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<i>TELC Blind School, Tirupattur</i>	<i>10</i>	<i>7</i>	<i>59</i>
<i>Bishop Diehl Home for Blind, Trichy</i>	<i>5</i>	<i>12</i>	<i>40</i>

<i>Hospitals</i>	<i>Doctors</i>	<i>Nurses</i>	<i>Tech. Staff</i>	<i>Admn. Staff</i>	<i>Students</i>
<i>10</i>	<i>30</i>	<i>27</i>	<i>35</i>	<i>204</i>	<i>30</i>

<i>Schools/ Colleges</i>	<i>No. of Institutions</i>	<i>Teaching Staff</i>		<i>Non-Teaching Staff</i>		<i>Students</i>
		<i>Aided</i>	<i>Mgt.</i>	<i>Aided</i>	<i>Mgt.</i>	
<i>No. of Primary Schools</i>	<i>135</i>	<i>431</i>	<i>35</i>			<i>6200</i>
<i>No. of Middle Schools</i>	<i>28</i>	<i>296</i>	<i>20</i>			<i>8300</i>
<i>No. of High Schools</i>	<i>5</i>	<i>33</i>	<i>15</i>	<i>15</i>	<i>5</i>	<i>1300</i>
<i>No. of Higher Secondary Schools</i>	<i>10</i>	<i>400</i>	<i>60</i>	<i>30</i>	<i>15</i>	<i>7500</i>
<i>No. of Teacher Training Schools</i>	<i>2</i>	<i>19</i>	<i>12</i>	<i>4</i>	<i>8</i>	<i>77</i>
<i>TEML College, Porayar</i>	<i>1</i>	<i>125</i>	<i>50</i>	<i>70</i>	<i>20</i>	<i>2200</i>
<i>ITI, Dindigul</i>	<i>1</i>	<i>8</i>	<i>8</i>	<i>3</i>	<i>2</i>	<i>60</i>
<i>Institute of Opthamalogy</i>	<i>1</i>					<i>100</i>
<i>Total</i>	<i>183</i>	<i>1312</i>	<i>200</i>	<i>122</i>	<i>50</i>	<i>25737</i>

<i>Boarding Homes and Day Care Centers</i>	<i>No. of children receiving grant</i>
<i>TELC Frolich Home for Girls, Pandur (Girls)</i>	<i>50</i>
<i>TELC Home for Children, Pandur (Boys)</i>	<i>55</i>
<i>TELC Grundler Hostel, Tranquebar</i>	<i>54</i>

TELC Home for Children, Sengaraiyur	75
TELC Home for Children, Kamuthi	135
Sitherkadu Day Care Center	140
Tranquebar Day Care Center	225
TELC Day Care Center, Pattamangalam	50
TELC Day Care Center, Kiliyanur	80
Total	864

30. TELC has been made to face various litigations by the rival factors by the Bishop which led to the appointment of the Honourable Mr.Justice J.Kanakaraj, a retired Judge of this Court and subsequently, pursuant to the above cited order, the Honourable Mr.Justice K.Venkataraman, a retired Judge of this Court, was appointed as the Judge Administrator.

31. It *prima facie* appears that all the accused took a conscious decision not to assist the Judge Administrator in giving out the relevant details as to the administration of TELC properties.

32. The judgments relied on by the learned Counsel for the petitioners/A.1 to A.4 in **Gurbaksh Singh Sibbia v. State of Punjab** reported in **AIR 1980 SC 1632** and **Siddharam Satlingappa Mhetre v. State of Maharashtra** reported in **2011 (1) Supreme Court Cases 694**, lay down the proposition that the power of grant or refusal of bail is entirely discretionary and it should depend on the facts and circumstances of each case. There cannot be any difficulty in accepting the time

tested proposition.

33. It is a well settled proposition of law that for grant of bail or anticipatory bail, no straight jacket formula can be prescribed, for the reason that each application for grant of such a relief is to be considered on it's own merits and in the facts and nuances of each case.

34. In ***Sudhir v. State of Maharashtra*** reported in **(2016) 1 Supreme Court Cases 146**, with regard to the allegation of misappropriation of public funds and corruption, application for anticipatory bail filed by the concerned accused was ordered by the lower Court and the High Court has cancelled the said bail and it was put to challenge before the Honourable Supreme Court. The Honourable Supreme Court has taken into consideration it's earlier decisions including the decision in ***Gurbaksh Singh Sibbia v. State of Punjab*** reported in **(1980) 2 Supreme Court Cases 565** and in paragraph 12, observed as follows:

"12. Having considered the submissions made by the learned counsel for the parties, and after considering the gravity of the offence, circumstances of the case, particularly, the allegations of corruption and misappropriation of public funds released for rural development, and further considering the conduct of the appellants and the fact that the investigation is held up as the custodial interrogation of the appellants could not be done due to the anticipatory bail, we are of the opinion that the High Court has rightly cancelled the anticipatory bail granted to the appellants by

the Additional Sessions Judge, Jalgaon. Therefore, we are not inclined to disturb the same."

35. While granting bail, the Court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations. [***Y.S.Jagan Mohan Reddy v. CBI*** reported in **2013 (7) SCALE 7**]

36. The Honourable Supreme Court in ***Siddharam Satlingappa Mhetre v. State of Maharashtra*** reported in **(2011) 1 Supreme Court Cases 694**, while considering the application for anticipatory bail, laid down the following parameters and in paragraph 112, observed as follows:

"112. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail:

(i) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;

(ii) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;

(iii) The possibility of the applicant to flee from justice;

(iv) The possibility of the accused's likelihood to repeat similar or the other offences.

(v) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.

(vi) Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.

(vii) The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of sections 34 and 149 of the Indian Penal Code, 1860, the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;

(viii) While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;

(ix) The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

(x) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail."

37. The Honourable Supreme Court in the decisions in **D.K.Ganesh Babu v. P.T.Manokaran** reported in **(2007) 4 Supreme Court Cases 434**; **State of Maharashtra v. Mohd. Sajid Husain Mohd. S.Husain** reported in **(2008) 1 Supreme Court Cases 213** and **Union of India v. Padam Narain Aggarwal** reported in **(2008) 13 Supreme Court Cases 305**, laid down the proposition that *"Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the Court must record reasons therefor and anticipatory bail can be granted only in exceptional circumstances where the Court is prima facie of the view that the applicant has falsely been enroled in the crime and would not misuse his liberty."*

38. This Court taking into consideration the above facts and circumstances of the case and in the light of the above cited decisions rendered by the Honourable Supreme Court, is of the considered view that this is not a fit case for granting the relief of bail in the event of arrest to the petitioners/A.1 to A.4, especially, for the reason that despite the opportunities granted by this Court in Contempt Petition No.783 of 2017 by the Judge Administrator as well as by the Investigating Agency, the petitioners/A.1 to A.4 did not extend their co-operation. Though the petitioners/A.1 to A.4 in the typed set of documents filed in support of these petitions, this Court cannot go into the truth, legality or otherwise of of the documents and it is for the Investigating Agency to consider the same as to the authenticity.

39. In the result, Crl.O.P.Nos.15897 and 15899 of 2019 are dismissed.

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(M.S.N.,J.)

(T.R.,J.)

Internet : Yes/No

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Crl.O.P.Nos.15897 & 15899 of 2019

M.SATHYANARAYANAN,J.
AND
T.RAJA,J.

rsb



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