



IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Monday, the Thirtieth day of December Two Thousand Nineteen

WEB COPY

PRESENT

The Hon`ble Mr Justice M. NIRMAL KUMAR
CRIMINAL ORIGINAL PETITION No.34649 of 2019

JONATHAN DANIEL

[PETITIONER / ACCUSED]

Vs

STATE REP.BY ITS
THE INSPECTOR OF POLICE,
CBI/ACB,
CHENNAI.
CRIME NO.RC MA 1 2019 A 0017.

[RESPONDENT]

For Petitioner : M/S.T.SAI KRISHNAN Advocate

For Respondent : MR.K.SRINIVASAN SPECIAL PUBLIC PROSECUTOR
FOR CBI CASES

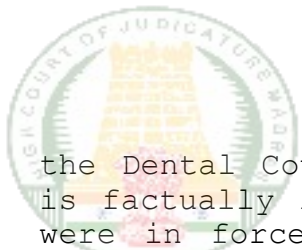
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences under Sections 120 (B) r/w 420 of IPC and Section 13 (2) r/w Section 13(1) (d) of Prevention of Corruption Act, 1988 in Crime No. RC MA 1 2019 A 0017 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner was appointed as a regular professor on 10.11.2005. He had only 7 years teaching experience as against the mandatory requirement of 8 years as per the rules of Dental Council of India. After completion of the post graduation and in between his teaching experience, the petitioner had between 04.03.2000 to 03.03.2002, worked as Assistant Registrar cum Research Officer at Amiri Dental Centre, therefore the petitioner had intentionally suppressed this factor and had managed to obtain employment as Professor with the connivance of the officials. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner initially recruitment as Assistant Professor with effect from 29.06.2002 and he had made an application only from Kuwait and the Selection Committee proceedings would clearly indicate that the petitioner had expressly stated about his working at Kuwait. He further submitted that such selection to the post of Professor is concerned, the statement in the FIR, that



the Dental Council Rules require 8 years of mandatory experience is factually incorrect and as per the Dental Council Rules which were in force during the year 2005, it was only five years of experience which was mandatory. The Mahatma Gandhi Dental College and Hospital had prescribed only 8 years of experience in teaching field. He further submitted that when the petitioner joined the Institute in the year 2002 as Assistant Professor, there was no post graduation. However in the year 2004, permission was granted for post graduation by the State Government and the course was started in the year 2006. The petitioner was initially appointed on Adhoc basis on 16.02.2005 as Professor. Thereafter the said post was advertised and after verification of records, the petitioner called for interview. Thereafter the petitioner was appointed as Professor and his services were regularized since the mandatory requirement of 5 years as prescribed by the Dental Council and also had 9 years of total experience which included two years of experience in Kuwait. The petitioner was otherwise found suitable, the petitioner was appointed as Professor. He further submitted that one of the Professor namely S.P.K.Kennedy was promoted belatedly after the petitioner in the year 2007. He wanted to score a march over this petitioner in matters of further promotion and administrative posts. This Professor also have happened to be a son of powerful Political personality using his political clout at each stage managed to exert undue pressure on the respondent to register the present case only to scuttle the further promotional opportunities and administrative positions and he had also given the very same complaint to Vigilance, CB CID, Puducherry and all authorities. Therefore, he prays to grant anticipatory bail to the petitioner.

4. The learned Special Public Prosecutor had filed counter before this Court submit that the source information received that Mr. M. Jonathan Daniel, Associate Dean, Mahatma Gandhi Post Graduate Institute of Dental Sciences, Puducherry was promoted to the post of Adhoc Professor in the said institution on 16.02.2005 with teaching experience of 6 years and 3 months after post graduation and promoted as regular Professor on 10.11.2005 with 7 years teaching experience against the mandatory requirement rules of Dental Council of India that 8 years teaching experience in the subject/speciality after post graduation. During the period from 04.03.2000 to 03.03.2002, the petitioner had worked as Assistant Registrar-cum Research officer at Amiri Dental Centre at Kuwait which could not be counted as teaching experience for the purpose of promotion as Professor and thus by giving false particulars and obtaining the post. After registration of the case, the search was conducted at the residential premises of the petitioner and substantial incriminating documents were seized. The presence of the petitioner is required for further investigation based on the seized documents and other materials. He further submits that the investigation is in the inception stage and it is required to find out the modus operandi of the petitioner and others, the criminality involved, the mensrea, role of other accused etc to be probed in detail. The petitioner being a influential person if anticipatory bail is granted there is every possibility to tamper



with evidence which is collected by the respondent. Therefore he prays for dismissal of the petition.

5. In view of the rival submissions made by the respondent and on perusal of the material, the crux of the issue is that whether the petitioner had mandatory experience before he was appointed as Professor. During the year 2005, according to the petitioner it was only 5 years as per the Dental Council Rules and further the petitioner had applied from Kuwait where he was working in the year 2002 and there apart from carrying on profession on the medical side there, he was teaching and this factor was not informed to the Selection Committee. It is only now interpretation of the requisite mandatory period is calculated. The petitioner being a Professor of Mahatma Gandhi Institute of Dental Sciences, Puducherry for the past 15 years and for the past one year and 2 months he had been cooperating with the investigation whenever he was examined and submitting documents.

5. Considering the above facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6. Accordingly, the petitioner is ordered to be released on anticipatory bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Special Judge for CBI Cases, Puducherry, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the said Special Judge, on further condition that:

[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Special Judge may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] if the petitioner fail to surrender before the said Court within a period of fifteen days, this order shall stand automatically cancelled.

[c] the petitioner shall report before the respondent at 10.30 a.m every Saturday, for the period of four weeks and thereafter as and when required for interrogation.

[d] The petitioner can leave India only by filing his date of Departure, the Date of Arrival, place of stay, his contact number there to the concerned Court by way of Memo and the same to be intimated to the respondent police.



[e] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[f] the petitioner shall not abscond either during investigation or trial;

[g] on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner 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]**; and;

[h] if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-
30/12/2019

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SPECIAL JUDGE FOR CBI CASES,
PUDUCHERRY

2 THE SPECIAL PUBLIC PROSECUTOR,
FOR CBI CASES, PUDUCHERRY.

3 THE INSPECTOR OF POLICE,
CBI/ACB, CHENNAI.

+1CC to M/S.T.SAI KRISHNAN Advocate on payment of necessary charges SR NO.106904

CRL OP.34649/2019

Date :30/12/2019

MK:10/01/2020

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



WEB COPY