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

Tuesday, the Fourth day of June Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD) No.7055 of 2019

G.GOMATHISANKAR ... PETITIONER / ACCUSED

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
THOOTHUKUDI DETACHMENT.
(CRIME NO.5 OF 2019) ... RESPONDENT / COMPLAINANT

For Petitioner : MR.KARTHICK SUBRAMANIAN Advocate

For Respondent : MR.V.NEELAKANDAN, Additional Public Prosecutor

PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

This petition has been filed by the Accused seeking bail for the alleged offence punishable under Section 7 (a) Prevention of Corruption Act, 1988 as amended by the Prevention of Corruption (Amendment) Act, 2018.

2.The respondent has filed counter affidavit, denying the allegations made in the petition.

3.The learned counsel appearing for the petitioner has submitted that as per the prosecution case, the de facto complainant applied for Solvency certificate on 26.04.2019 and subsequently, he applied for Money Lenders Licence on 30.04.2019. While the Solvency certificate was issued through on-line on 30.04.2019, Money Lenders Licence was not issued. Hence, on 02.05.2019 and 03.05.2019, the de-facto complainant approached the petitioner, who was working as Deputy Tashildar in the Taluk Office, Tiruchendur and made an enquiry as to why Money Lenders Licence has not been issued and at that time, the petitioner herein demanded a sum of Rs.20,000/- as bribe and with regard to the said fact, a compliant was lodged on 06.05.2019. Based on the said complaint, an F.I.R was registered in Crime No.5 of 2019, for the offence punishable under Section 7(a) of Prevention of Corruption Act, 1988 as amended by the Prevention of

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Corruption (Amendment) Act, 2018. He further submitted that according to the prosecution, after registering the F.I.R, the de facto complainant gave the amount of Rs.20,000/- which was recovered and usual Phenolphthalein test has been conducted and the same has been proved as positive. He further submitted that on 30.04.2019 itself, Money Lenders Licence was sent by on-line by the petitioner and in such a case, the case of the prosecution that on 02.05.2019 and 03.05.2019, the petitioner made a demand of Rs.20,000/- as bribe for issuing Money Lenders Licence and in pursuance of the said demand, he has received the said amount on 06.05.2019 is not acceptable. He further submitted that the petitioner is in custody for the past 30 days. Therefore, he prayed for grant of bail to the petitioner.

4.Per contra, the learned Public Prosecutor has submitted that the de facto complainant has applied for Solvency Certificate on 02.04.2019 and the same was rejected for non production of certain documents and subsequently, the de facto complainant applied for Solvency Certificate on 26.04.2019, enclosing all necessary documents and considering the said documents Solvency Certificate was issued on 30.04.2019. He further submitted that on 30.04.2019 itself, the de facto complainant applied for Money Lenders Licence by on-line, but, the petitioner herein, who was working as Deputy Tashildar, did not process the said application and hence, on 02.05.2019 and 03.05.2019, the de facto complainant approached the petitioner and made an enquiry as to why his application was not processed and at that time, the petitioner demanded a sum of Rs.20,000/- as bribe, for issuing Money Lenders Licence. He further submitted that the de facto complainant has lodged a complaint before the respondent on 06.05.2019 at about 08.30.am., and based on the said complaint, a case was registered in Crime No.5 of 2019, for the offence under Section 7 (a) Prevention of Corruption Act, 1988, as amended by the Prevention of Corruption (Amendment) Act, 2018. Thereafter, a trap was arranged and the petitioner herein was trapped and arrested at 17.45 hours at Tiruchendur Taluk Office, when he accepted the illegal gratification of Rs.20,000/- from the de facto complainant. He further submitted that without knowing the fact that the application was already processed and the Money Lenders Licence was also sent through on line, the de facto complainant approached the petitioner on 02.05.2019 and 03.05.2019 and subsequently, lodged a complaint and thereafter, amount was also paid by him to the petitioner herein. He also submitted that the investigation is in progress and therefore, he strongly opposed this petition.

5. The case of the prosecution is that on 02.05.2019 and 03.05.2019, the petitioner demanded a bribe of Rs.20,000/- for issuing Money Lenders Licence and in pursuance of the said demand, he accepted the bribe of Rs.20,000/- on 06.05.2019. But, admittedly, on 30.04.2019 itself, the petitioner herein had sent the Money Lenders Licence of the de facto complainant through on-line.

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6.Taking into consideration of the aforesaid facts and also the fact that the petitioner is in custody for the past 30 days, this Court is inclined to grant bail by imposing conditions.

[a] the petitioner is ordered to be released on bail on his executing 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 Chief Judicial Magistrate, Thoothukudi;

[b] the petitioner shall report before the respondent police daily at 10.00.a.m for a period of one month and thereafter, as and when required for the interrogation.

[c] the petitioner shall not abscond either during investigation or trial.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] 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].

[e] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
04/06/2019

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI.
2 THE INSPECTOR OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
THOOTHUKUDI DETACHMENT.
3 THE OFFICER INCHARGE,
DISTRICT JAIL, PERURANI,
THOOTHUKUDI DISTRICT.
4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.S.KARTHICK SUBRAMANIAN, Advocate (SR-9126[I] dated 04/06/2019)

ORDER
IN
CRL OP(MD) No.7055 of 2019
Date :04/06/2019

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JM/VR/SAR 2/04.06.2019/3P/6C