



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

Friday, the Eleventh day of January Two Thousand Nineteen
PRESENT

WEB COPY

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.22695 of 2018

S. INDUMATHY

... PETITIONER / UNNAMED ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
C.B.C.I.D.(OCU),
TRICHY CITY.
(IN CRIME NO. 2 OF 2014)

... RESPONDENT / COMPLAINANT

For Petitioner : MR.THILAGA BALASUBRAMANIAM Advocate

For Respondent : MR.S.CHANDRASEKAR
Additional Public Prosecutor

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 punishable under Sections 417, 420, 468, 472, 467 & 120(b) of IPC., in Crime No.2 of 2014, on the file of the respondent police, seeks anticipatory bail. The petitioner, who is the Labour Officer, has filed this anticipatory bail petition.

2. The case of the prosecution is that on 30.08.2018, the defacto complainant, who was working as Sanitary Inspector, Birth and Death Certificate issuing Authority of Tiruchirappalli Corporation had verified 267 Death Certificates forwarded to him, by the Principal Accountant General (Civil Audit) Chennai. These Certificates, which were produced by the beneficiaries before the Labour Welfare Officer, for getting monetary benefits from the Labour Welfare Department. On verification, it was found that 227 Death Certificates are bogus. The seals and signatures found in the certificates are false and fabricated one. During the course of investigation, so many Labour Unions were functioned under the guideline of Tamil Nadu Government to serve poor labourers. Its function is to enroll members like, Tailor, Welder, Machinist, Mazon, Gem Cutting Workers in Labour Office (Social Security Scheme) for obtaining various welfare funds such as, school scholarships for the children of labourers, maternity assistant, accident death, accident disability etc., The Unions are to submit their

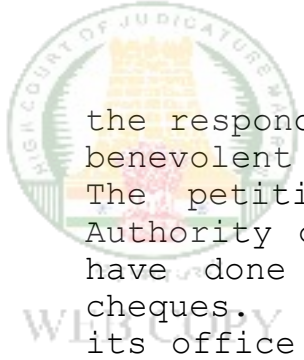


applications for getting assistance to the Labour Welfare Officer, along with the Death Certificate and other relevant certificates. Particularly two Unions in the name of 'Anna Thozhil Sangam' and 'Tamilnadu Udal Uzhaippu Thozhilalar Sammalenam' were run by one Mariappan and Ulaganathan, who have created fake membership cards and produced the bogus certificate in the Labour Welfare Office through their Unions and claimed the Government funds illegally. They recommended based on fabricated documents through their Unions to the Labour Office, Trichy, for getting the natural death, funeral expenses aids of Rs.17,000/- for each beneficiaries. Total beneficiaries are 230 out of which 6 alive persons and accident death benefit claim of Rs.1,02,000/- for one person, who is also alive, have been claimed. Thus, a total amount of cheating approximately is Rs.40,12,000/-, thereby, cheated the Government. Further, in most of the death compensation files it is found that the concerned Labour Unions not recommended the said files in Form-D. The Labour Officer had sanctioned the said applications without verification. The said amounts have been paid by the petitioner to the impersonated people and thereby violated the Tamilnadu Manual Workers Welfare Scheme, 1994 and the Labour Officer has not followed the Rules laid down in the Scheme and did not verify 231 files and sanctioned the compensation. This was found out by Audit Committee, who had scrutinized the applications of two Unions. It is also found that this accused had sanctioned three applications in File Nos. 105, 124 and 220 out of 231. Further, the cheques to the beneficiaries have been dispersed through the uncrossed cheque and thereby violated the Manual. Thus, this accused had conspired with other accused in commission of the offence.

3. The learned counsel appearing for the petitioner would submit that the petitioner is a Labour Officer of Trichy. The petitioner had processed the applications for obtaining the Death Certificates submitted by the beneficiaries through the Unions to the Labour Office and the same were verified by the subordinates of the petitioner and were submitted to the petitioner for issuance of cheques. The petitioner sanctioned and disbursed the amounts through cheque payments in the name of applicants. The petitioner disbursed the cheque in accordance with Tamil Nadu Manual Welfare Social Security and Welfare Scheme and its Circular. Further, all the accused in this case have been arrested and released on bail by this Court and lower Courts. The name of the petitioner does not find place in the FIR. Only on the basis of the confession of the co-accused, the petitioner's name has been included. Further, all the forms and certificates were produced by the recognized Unions to the Labour Officer and the petitioner relying upon the representation of the union and scrutinized by the office Staff had approved and sanctioned the amounts to the beneficiaries by way of cheque. At the most, it could be only said that there have been procedure violation and no criminality could be attached to the act of the petitioner.

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4. The learned Government Advocate (crl.side) appearing for



the respondent would submit that a Social Welfare Scheme, which is a benevolent Scheme for the needy persons in the Unauthorized Sector. The petitioner, being a Labour Officer and the check signing Authority ought to have taken care and followed all procedures and have done due diligence, while sanctioning and issuance of the cheques. This petitioner had conspired with the Trade Unions and its office bearers and had cheated the Government funds and thereby denying the welfare scheme to the needy persons. The cheque payments were not issued to the beneficiaries as account payee and the same was handed over to the Union Leaders directly. Further, during examination of the witnesses it came to know that 6 persons, who are alive, had been shown as as if they have died and claim forms have been made in their names and cheques have been issued. The petitioner's earlier anticipatory bail applications were dismissed by this Court. He strongly opposes the issuance of anticipatory bail to the petitioner.

5. It is found from the records that this Court had earlier dismissed the bail application, but even thereafter, the petitioner has not been apprehended sofar. In view of the same, this Court has directed the respondent to file a status report to know about the whereabouts and the status of the petitioner. In the status report filed today, it is found that the petitioner was enlisted as Labour Officer on 15.12.1994 and she is continuously continuing the same designation without promotion due to many defaults in her service and she was suspended from duty for quite some time and disciplinary action has been taken by the Department. It is further submitted that the petitioner / accused was taken back in duty as Labour Officer, Ariyalur District on 03.08.2015 and she was transferred on 02.08.2018 to Vellure District. Thus, it is found that the petitioner is very much available and was in continuous service of the Government. Therefore, the Investigating Officer consciously aware of the fact that the petitioner is continuously working and had not effected arrest of the petitioner even after dismissal of the petition. There is no meaning in the petition being dismissed again and again instead the petitioner is directed to join with the investigation process so that logical conclusion would be arrived at, on the crime of the year 2014.

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

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on her appearance, before the learned Judicial Magistrate No.VI, Trichy, 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 learned Magistrate concerned and on further condition that;

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[a] if the petitioner failed to surrender before the said

Magistrate within a period of fifteen days, this Order shall stand automatically cancelled.

[b] the petitioner shall report before the respondent police, daily at 10.30 a.m., for a period of two weeks, and thereafter, as and when required, for interrogation

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

[d] the petitioner shall not abscond 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]**.

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
11/01/2019

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

TO

1.THE JUDICIAL MAGISTRATE NO.VI,
TRICHY.

2.DO THRO'THE CHIEF JUDICIAL MAGISTRATE,
TRICHY DISTRICT

3.THE INSPECTOR OF POLICE,
C.B.C.I.D.(OCU), TRICHY CITY.

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

+1. CC to MR.J.SENTHIL KUMARAI AH, Advocate SR.No.936

ORDER
IN
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Date :11/01/2019