

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.Nos.5459 & 5469 of 2020

S.K.Abu Bakar ... Petitioner in Crl.O.P.No.5459 of 2020

K.Girish Babu ... Petitioner in Crl.O.P.No.5469 of 2020

Vs.

State Rep by,
The Assistant Commissioner of Police,
CCB-1, Chennai.
[Crime No.325 of 2019]

... Respondent in both the petitions

Common Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on bail pending investigation in Crime No.325 of 2019 on the file of the respondent police.

For Petitioners : Mr.R.K.Ramesh
(in both Crl.O.Ps.)

For Respondent : Mr.M.Mohamed Riyaz
Additional Government Pleader
(in both Crl.O.Ps.)

C O M M O N O R D E R

(The case has been heard through video conference)

सत्यमेव जयते

The petitioners, who apprehend arrest at the hands of the respondent Police for the offence punishable under Sections 8 & 12 of the Prevention of Corruption Act, 1988 r/w Section 420 of IPC 1860, in Crime No.325 of 2019, seek anticipatory bail.

2. The case came to be registered on the complaint given by one Raja Kumar, Secretary, Bar Council of Tamilnadu and Puducherry, Chennai. The case of the prosecution is that one Vibin in order to enroll as an advocate, has submitted an application on 30.01.2019 before the Bar Council of Tamilnadu and Puducherry, Chennai (BCTP). On scrutiny, it was found that the said Vibin has studied the law degree in the year 2015-2018 at Smt. Basava Rama Tarakam Memorial college, Kadapa, Andhra Pradesh, while he was in service in Southern Railways, Chennai and subsequently, he has given voluntary retirement from service (VRS) on 20.05.2017 and as such, his application was rejected by the Enrolment Committee of BCTP.

3. On 06.11.2019, the said Vibin complained that one Ulaganathan and Mohandoss @ Manohar Doss had obtained a sum of Rs.40,000/- and Rs.25,000/- for getting favourable orders from the Enrolment Committee, before the Bar Council of Tamilnadu and Puducherry following which, a complaint was preferred by the Secretary, BCTP with the B-4 Police Station, Chennai. Based on the complaint, a case was registered in Crime No.23 of 2019 under Section 8 & 12 of Prevention of Corruption Act, 1988 and 420 IPC. Subsequently, A1 Vibin was arrested on 06.11.2019 and the two other accused A2 Ulaganathan and A3 Mohandoss @ Manohar Doss were arrested on 07.11.2019. Subsequently, as per the orders of the Commissioner of Police, Greater Chennai Police vide Rc.No.Crime.III(1)/341/99601/2019, dated 14.11.2019, the case was transferred to the respondent police and was re-registered in Crime No.325 of 2019 and the sections of the case were altered into 8, 12 of Prevention of Corruption (Amendment) Act 2018 r/w 420, 468, 471 IPC.

4. During the course of the investigation, Mr.Kandati Himvantha Kumar, Principal of Smt. Basava Rama Tarakam Memorial College, Kadapa, Andhra Pradesh, was arrested and remanded to judicial custody on 22.01.2020 and lodged at the Central Prison, Puzhal, Chennai and during interrogation, he has confessed that the petitioners had received Rs.65,00,000/- from him and one Govarthana Reddy, the Correspondent of Smt.Basava Rama Tarakam Memorial Law College, on promise to exercise their influence and to get him released from this case.

5. The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case, since they argued with the respondent police for arresting Kandati Himvantha Kumar who is their relative. He would further submit that the said Kandati Himvantha Kumar was released on bail on 16.03.2020 and till date there is no complaint before any Authority alleging that the petitioners received such an amount of Rs.65,00,000/- from him. He would submit that except the confession statement, till date there is no other materials placed by the respondent Police to substantiate the allegations that the petitioners were paid an amount of Rs.65,00,000/-. Further, the petitioners are not connected with the main allegation of fabrication and issuance of bogus degrees.

6. The learned Additional Public Prosecutor submitted that the petitioners are the relatives of the said Kandati Himavantha Kumar and they have taken an amount of Rs.65,00,000/- as bribe to be paid on the assurance of getting him relieved from the case. The petitioners have been implicated based on the confession of the arrested accused (A4).

7. Taking into consideration of the facts and submissions of the learned counsel, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions;

8. Accordingly, the petitioners are directed to be released on bail in the event of their arrest or on their appearance, within a period of two weeks after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned Special Court for the cases under PC Act, Chennai, 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 learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further conditions that:

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

[b] the petitioners shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter to report before the respondent police on every Monday at 10.30 a.m., until further orders.

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

[d] the petitioners 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 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].

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

9. With the above directions, this Criminal Original Petition is ordered.

-sd/-
27/07/2020

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 COURT FOR THE CASES
UNDER PC ACT, CHENNAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE ASSISTANT COMMISSIONER OF POLICE,
CCB-I, CHENNAI.

CC to M/S.R.K.RAMESH Advocate on payment of necessary charges

CRL Ops.5459 & 5469/2020

Date :27/07/2020

cs 24/08/2020



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