

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.5762 of 2020

I. Vetrivel

... Petitioner

Vs.

The Superintendent of Police,
CBI, ACB,
Chennai.

FIR-RC MAI 2020 A0002

.... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C.,
praying to grant anticipatory bail to the petitioner on the file of
the respondent police.

For Petitioner : Mr.V.Karthic, Senior Counsel

For Respondent : Mr.K.Srinivasan

Special Public Prosecutor for CBI cases

O R D E R

(The case has been heard through video confernce)

The Petitioner who apprehends arrest at the hands of the
respondent police for the offences punishable under sections 7, 7A,
8, 12 of Prevention of Corruption Act in FIR No.RC MAI 2020 A0002
on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that is that A1 who is working
as Superintending Engineer (SE), Regional Office, Ministry of Road
Transport and Highways (MoRTH), Rajaji Nagar, Besant Nagar, Chennai,
had entered into a conspiracy with other accused persons for awarding
the contract in favour of the petitioner/A3 and demanded undue
advantage and bribe from the petitioner. A2 who is a Divisional
Engineer in the Tamil Nadu Highways Department and A4 who is a
retired employee of the Tamil Nadu Highways Department acted as
conduits. Based on an information, a case was registered, the
telephonic conversations were intercepted, recorded and a trap was
laid following which, A1, A2 and A4 were arrested at the office of A1
when the bribe money of Rs.2.76 lakhs was handed over to A1 and the
bribe amount was recovered. Hence, the complaint.

3. Mr.V.Karthik, learned Senior Counsel for the petitioner would submit that the petitioner is arrayed as A3 in this case. He would submit that the petitioner is an innocent and the allegations against the petitioner are totally false. He would further submit that infact the petitioner was awarded a contract by the Union of India on 25.02.2019 for the public project of widening and strengthening Natham Kottampatti section for 13.70 km in the EPC mode namely Engineering, Procurement and Construction through the Superintending Engineer, National Highways, Madurai. But the entire case of the respondent is that a sum of Rs.2.76 lakhs was recived by A1 through A2 and A4 in furtherance of decision making process in utility services. He would submit that since, the petitioner is not a qualified contractor, the contentions of the respondent that A1 received bribe for taking a decision in the utility contract, cannot be attributed to the petitioner. He further submitted that the utility services is not within the domain of the agreement entereded between the petitioner and the Naional Higways and the records would go to show that there is no reason or rhyme for the petitioner to pay any bribe to A1. He would further submit that the petitioner has been implicated only based on the confession recorded from the arrested accused and that the custodial interrogation of the petitioner may not be required since, the main accused have been arrested and the alleged bribe amount has also been recovered from the arrested accused. Further, house search was also conducted and nothing indiscriminating have been recovered from the house of the petitioner. He would further submit that the petitioner is prepared to appear before the respondent and to co-operate for investigation.

4. The respondent has filed a detailed counter. The learned Special Public Prosecutor appearing for the CBI cases, would vehemently oppose the anticipatory bail application stating that the petitioner is a road contractor. In order to award contract in favour of the petitioner/A3, A1 has demanded and received an amount of Rs.2.76 lakhs. On specific information the case was registered, the telephonic conversations between the accused were intercepted and recorded and thereafter a trap was laid during which, A1, A2 and A4 were arrested red handedly when the bribe amount was handed over to A1 on behalf of the petitioner/A3. He would submit that the arrested accused have confessed that the amount was paid on behalf of the petitioner herein and therefore, the custodial interrogation of the petitioner is very much required for obtaining the voice samples of the petitioner since, the telephonic conversations of the accused recorded has a bearing in the case of the prosecution.

5. At this juncture, Mr.V.Karthic, learned Senior Counsel for the petitioner would submit that the petitioner is prepared to co-operate with the respondent in his investigation and the petitioner is reday and willing to provide his voice samples and he has also filed an affidavit of undertaking agreeing to appear befoe the respondent and to provide his voice samples on any date fixed by the respondent before any lab used for taking voice samples.

6. This Court heard both sides and perused the available materials. It is a case of trap. Based on an information, the telephonic conversations between the accused were recorded based on which, a trap has been laid and an amount of Rs.2.76 lakhs was recovered from the place where the bribe money was handed over. Subsequently, A1, A2, and A4 have been arrested from the scene of occurrence and the files pertaining to the tender have also been seized from the respective offices. Thereafter, a search was also conducted at the official premises of the petitioner and other places on 05.03.2020. As per the respondent, the presence of the petitioner/A3 is required for the purpose of obtaining voice samples. The petitioner has filed an affidavit of undertaking agreeing to co-operate with the respondent in his investigation and also agreeing to give his voice samples for the purpose of investigation which as per the prosecution has an important bearing in the case.

7. In view of the above facts and circumstances of the case and the submissions made by the learned Counsel and the fact that the co-accused have been granted bail by this Court and that the petitioner has undertaken to provide his voice samples, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail in the event of his arrest by the respondent police or on his appearance, within a period of fifteen days after lifting of lockdown or the commencement of Court's normal functioning whichever is earlier, before the learned Principal Special Judge for CBI Cases, 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 condition that:

[a] the petitioner 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 petitioner shall report before the CBI ACB, Madurai, once in a week i.e. on every Monday at 10.30 a.m., for a period of three months and thereafter as and when required for interrogation before the Investigating Officer.

[c] The petitioner shall provide his mobile number and e-mail id to the respondent and shall be available to the respondent at all times for the purpose of investigation and for providing his voice samples at any date being fixed by the respondent either at Chennai or Madurai. The respondent is directed to give two days prior notice to the petitioner for fixing the date for obtaining the petitioner's voice samples either at Chennai or Madurai.

[d] the petitioner shall deposit his passport before the concerned Court. If the petitioner does not possess passport, an affidavit to that effect to be filed before the concerned Court.

[e] the petitioner shall not commit any offences of similar nature

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

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

[h] 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].

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

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

-sd/-
29/07/2020

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 PRINCIPAL SPECIAL JUDGE
FOR CBI CASES, CHENNAI.

2 THE SPECIAL PUBLIC PROSECUTOR
FOR CBI CASES, HIGH COURT, MADRAS.

3 THE SUPERINTENDENT OF POLICE
CBI ACB CHENNAI.

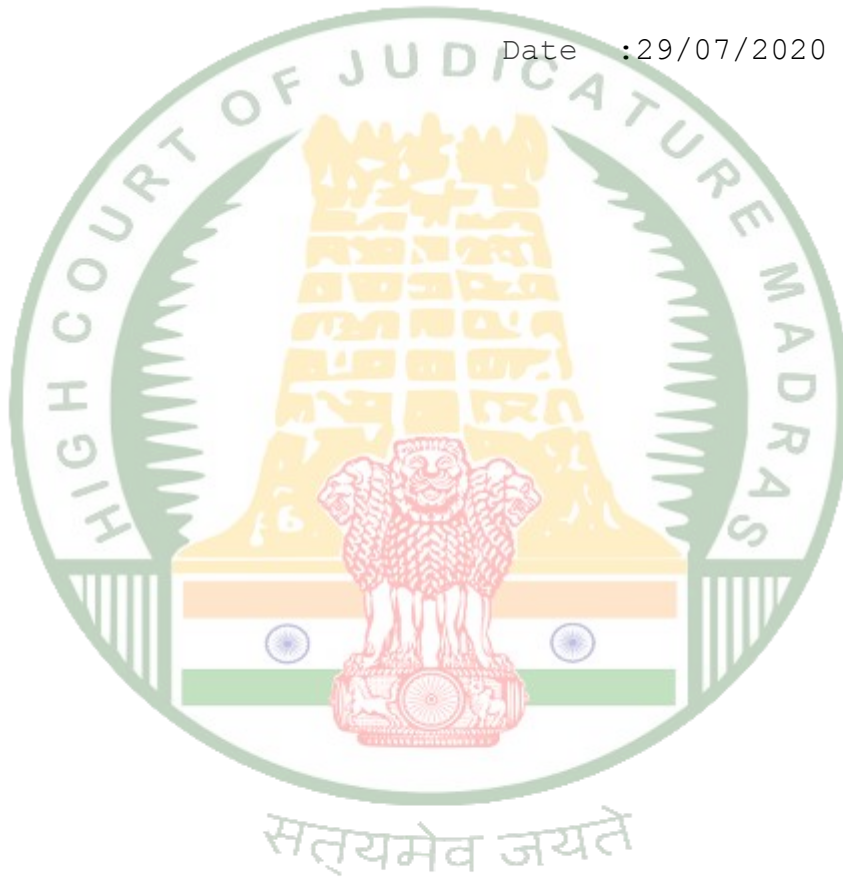
4 THE OFFICER INCHARGE
CBI ACB, MADURAI.

CC to M/S. VEERA ASSOCIATES Advocate on payment of necessary
charges

CRL OP.5762/2020

Date :29/07/2020

cs 25/08/2020



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