

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2020

CORAM

THE HONOURABLE MR.JUSTICE.M.NIRMAL KUMAR

Crl.O.P.Nos.7022, 7024 & 7026 of 2020

1. R.Ellavarason ... Petitioner/A1 in Crl.O.P.No.7022/2020
2. M.Murugaboopathi ... Petitioner/A2 in Crl.O.P.No.7024/2020
3. S.Ovu Reddy ... Petitioner/A4 in Crl.O.P.No.7026/2020

Vs.

The State rep by ...Respondent in all Crl.O.Ps.  
The Inspector of Police,  
CBI:ACB, Chennai.  
Crime No.RC MA1 2020 A 0002.

**Common Prayer:** Criminal Original Petitions filed under Section 439 Cr.P.C, to enlarge the petitioners on bail in Cr.No.RC MA1 2020 A 0002 pending on the file of the respondent police.

For Petitioner in Crl.O.P.No.7022/2020. : Mr. S.AbdulSaleem  
For Petitioner in Crl.O.P.No.7024/2020. : Ms. Abithabanu  
For Petitioner in Crl.O.P.No.7026/2020. : Mr. S.Elambharathi  
For Respondent in allCrl.O.Ps. : Mr. K. Srinivasan,  
SpecialPublic Prosecutor  
CBI Cases

**COMMON ORDER**

The petitioners, who were arrested and remanded to judicial custody on 04.03.2020 for the offence punishable under Sections 120 (b) IPC read with 7, 7A, 8 and 12 of PC Act 1988 as amended in 2018in Crime No.RC MA1 2020 A 0002, CBI ACB, Chennai on the file of the respondent police, seeks bail.

2.The respondent police had registered a case in Crime No.RC MA1 2020 A 0002, CBI ACB, Chennai on 04.03.2020 against A1/Ellavarason, the Superintending Engineer(SE)/Regional Office(RO), Ministry of Road Transport and Highways (Morth), RajajiBhavan, Besant Nagar, Chennai and A2/Murugaboopathi, the Divisional Engineer, Tamil Nadu Highways Department, Dindigul and A3/Vetrivel, Contractor, IVLR Concrete, Iravathanallur, Ramanathapuram Main Road, Madurai and A4/S. Ovu Reddy, JR Consultancy, AlagarKoil Road, K.Pudur, Madurai and others under Sections 120 B of IPC read with 7, 7A, 8 and 12 of PC Act, 1988 (as amended in 2018). The petitioners were arrested on 04.03.2020 and on 27.03.2020, this Court has granted interim bail to the petitioners/A1, A2 & A4 till 28.04.2020

and today this case came up for hearing. The respondent police CBI ACB, Chennai has filed detailed counter before this court.

3. The contention of A1/Ellavarason is that there is nothing to show that the petitioner had made any demand there is no demand and further no recovery was made from him and he is not the authority to award contract in favour of A3/Vetrivel and there are two superior officers in the form of Chief Engineer and Divisional Engineer who have to approve any work or as such the petitioner is not an independent authority as projected by the prosecution and would submit that he is a Superintending Engineer, Ministry of Road Transport, Highways and he has been discharging his duty without blemish for the past 30 years. He further submitted that he has been suffering from lung disease and he is under medical care and that the respondent police had already taken police custody of the petitioner for two days from 10.03.2020 to 12.03.2020. Thereafter, the petitioner moved an application for bail. Since, the entire trap proceedings had been completed and further incarceration of the petitioner was not required, the petitioner was granted interim bail. Hence, he prayed that the interim bail granted to the petitioner may be made absolute.

4. The contention of A2/Murugaboopathi is that the petitioner was Divisional Engineer, Government of Tamil Nadu, the petitioner neither made any demand nor any recovery was made from him. He, Further submitted that the petitioner was remanded to police custody on 10.03.2020, and the house of the petitioner was also searched and articles were seized. He further submitted that with regard to the petitioner, the investigation is almost over and hence, the incarceration of the petitioner is not necessary and that the petitioner has been put to great hardship due to this false complaint. Hence, he prays for grant of bail to the petitioner.

5. The contention of A4/Ovu Reddy is that he was Divisional Engineer, Highways Department, Government of Tamil Nadu and would submit that he has retired from service. As per the prosecution, the petitioner acted as conduit in the illegal gratification for awarding a contract to A3/Vetrivel in this case. He is further submitted that after retiring from service, he had only acted as a consultant to the projects by using his experience and expertise consultant for the project other than the project related works the petitioner was not involved in any other transaction, as consultant it is part of his work to apprise the concerned authority to clarify the technicalities in the project. The investigation with regard to the petitioner is almost over and the petitioner is aged about 63 years and the petitioner's house was also searched. Therefore, further incarceration of the petitioner is not required in this case.

6. The learned Special Public Prosecutor for CBI cases filed a counter and submitted that the petitioners were arrested and remanded to judicial custody on 04.03.2020 for the offence under Sections 120 B of IPC read with 7, 7A, 8 and 12 of PC Act, 1988 as amended in 2018. A3/Vetrivel is the Contractor, the amount involved were handed over to A4/Ovu Reddy. A3/Vetrivel, contractor is yet to be arrested. During the trap on 04.03.2020 in the office premises of

A1/Ellavarason, an amount of Rs.2.76 lakhs which was paid as bribe by A2/Murugaboopathi to A1 which was handed over by A2 to A4 came to be seized. All the three accused were arrested and they have admitted about their involvement in this case. He further submitted that A1/Ellavarason in conspiracy with other accused person, demanded from A3/Vetrivel in respect of contract pertaining to shifting of utility awarded to A3/Vetrivel, contractor. A1/Ellavarason, has demanded illegal gratification to A2/Murugaboopathi. All the accused had series of communication between them, which was intercepted and recorded. A1/Ellavarason had visited Dindigul on 26<sup>th</sup> evening and stayed, where it was decided an amount of Rs.2.76 lakhs to be delivered by A2/Murugaboopathi at Chennai to A1/Ellavarason. A2/Murugaboopathi had visited on 04.03.2020 and handed over the bribe amount of Rs.2.76 lakhs to A1/Ellavarason at his office. On 04.03.2020, at about 5.50 p.m.. The CBI Team approached the Regional Office at Rajaji Bhavan, Chennai and questioned A2/Murugaboopathi who was coming out of the office after meeting A1.

7. Further with regard to payment of illegal gratification to A1/Ellavarason initially, A2/Murugaboopathi, initially hesitated but later admitted that he has paid an amount of 2.76 lakhs to A1/Ellavarason who in turn gave the said amount to A4/Ovu Reddy who was present inside the office and thereafter, the CBI Team along with independent witnesses entered into the Regional Office (Morth) along with A2/Murugaboopathi who identified A1/Ellavarason and A4/Ovu Reddy who were present inside the chamber of A1/Ellavarason. When they were questioned, it was stated that an amount of Rs.2.76 lakhs was handed over to A1/Ellavarason towards the award of Engineering, procurement and Construction (EPC) Basics contract for widening and strengthening of Nathan-Kottampatty Section from kilometre 38/0-51/770 of NH 383 including shifting of utilities in the state of Tamil Nadu to A3/Vetrivel. A4/Ovu Reddy stated that he retired from service on 31.03.2015 and admitted that he came to meet A1/Ellavarason and also admitted that he received a sum of Rs.2.76 lakhs from A1/Ellavarason which was handed over by A2/Murugaboopathi. In this case, the accused arrested and remanded and the receipt and recovery of illegal gratifications have been established.

8. Further submitted that during the course of investigation, searches were conducted at the residence and office premises of A1/Ellavarason, A2/Murugaboopathi, A3/Vetrivel and A4/Ovu Reddy and other places and seized incriminating documents such as, sale deeds pertaining to immovable properties purchased during the year 2018-2019, diaries, bills for the purchase of Gold Jewelleries, etc., and uncounted cash about Rs.7.5 lakhs from the premises of A1/Ellavarason and Rs.10.995 lakhs from the premises of A2/Murugaboopathi and Rs.7.5 lakhs from the premises of A4/Ovu Reddy and FDR amount worth of Rs.19 lakhs purchased in the year 2019 was also seized from the residence of A1/Ellavarasons. The investigation with regard to seizure of uncounted cash, diaries, FDR, etc., is on and investigation of the case is in initial stage. During police custody, the petitioners/A1, A2 & A4 disclosed new facts which are to be verified with documents and witnesses and important documents

relating to this case are to be collected from the various Departments at Chennai and other places and relevant witnesses are yet to be examined. The petitioners/A1, A2 & A4 are highly influential in nature and if bail is granted there is every possibility that they would tamper with the evidence. Hence, he opposed for the grant of bail to the petitioners.

9. This Court on the submissions made by the learned counsel and perused the available materials. It is seen that it is a trap case. The telephonic conversation with regard to A1, A2, A3 and A4 have been recorded, the trap money recovered. The petitioners/A1, A2 and A4 have been arrested from the scene of occurrence. Further the files pertaining to the tender have also been seized from the respective offices. The petitioners/A1, A2 and A4 were taken in to police custody and were examined. Therefore, this Court by order dated 27.03.2020 granted interim bail to the petitioners/A1, A2 and A4 and in view of the same, this Court is inclined to grant bail to the petitioners/A1, A2 and A4 by making the interim bail absolute subject to the following conditions:

(a) the petitioners/A1, A2 & A4 shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Court within 15 days from the date of lifting of lockdown and commencement of regular functioning of the Court below, failing which the bail granted by this Court shall stand dismissed automatically;

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(c) the petitioner/A1 in CrI.O.P.No.7022/2020 shall report before the respondent police 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.

(d) the petitioners/A2 & A4 in CrI.O.P.Nos.7024 & 7026/2020 since they are residing at Dindigul and Madurai respectively and there is restriction in the movement due to pandemic situation/period. Hence, A2 & A4 are directed to appear before the Inspector of Police, 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.

(e) the petitioners/A1, A2 & A4 to deposit their passport before the concerned Court. If the petitioners do not possess passport, an affidavit to that effect to be filed before the concerned Court.

(f) the petitioners/A1, A2 & A4 shall not commit any offences of similar nature;

(g) the petitioners/A1, A2 and A4 shall not abscond either during investigation or trial;

(h) the petitioners/A1, A2 & A4 shall not tamper with evidence or witness either during investigation or trial;

(i) on breach of any of the aforesaid conditions, the learned Judicial 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 themselves as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560];

(j) if the accused persons thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

10. With the above directions, these Criminal Original Petitions are ordered accordingly.

-sd/-

08/06/2020

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 ADDITIONAL SPECIAL JUDGE  
FOR CBI CASES, XIII ADDITIONAL CITY CIVIL  
COURT, CHENNAI.

2 THE PRINCIPAL JUDGE  
CBI, CHENNAI.

3 THE SUPERINTENDENT,  
CENTRAL PRISON-II, PUZHAI.

4 THE SPECIAL PUBLIC PROSECUTOR  
CBI CASES, HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE  
CENTRAL BUREAU OF INVESTIGATION,  
ACB, CHENNAI.

CC to M/S.ABDUL SALEEM Advocate on payment of necessary charges

CrI.O.P.Nos.7022, 7024 & 7026 of 2020

Date :08/06/2020

TA-14/10/2020