

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.16304 of 2020

Syed Akthar Hussain

... Petitioner

Vs.

The State represented by
The Inspector of Police,
P-2, Otteri Police Station,
Chennai-600 012.
(Crime No.801/2019)

...Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on anticipatory bail in the event of apprehending arrest in Crime No.801 of 2019 under Sections 406, 420 and 506(1) of IPC pending on the file of respondent.

For Petitioner : Mr.Y.Kaja Navas

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner who apprehends arrest at the hands of the respondent police for the offences publishable under Sections 406, 420 and 506 (1) of IPC in Crime No.801 of 2019 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution as per the defacto complainant / Mohammed Sajath, Secretary of the Dadashamakkan Wakf is that one G.M.Syed Fasi Mohammed was the previous secretary of the Wakf Committee and that he has indulged in financial irregularities, mal-practises and swindled the money for his own purpose by transferring money to one Zamila and R.Usha and thereby cheated the Wakf to an extent of Rs.4,00,000/- (Rupees Four Lakhs Only). Hence, the complaint.

3.The learned Counsel for the petitioner submitted that the petitioner has nothing to do with the alleged offence and a false case has been foisted against the petitioner due to rivalry in administration of the Mosque. He further submitted that even as per the allegations the earlier secretary Mr.G.M.Syed Fasi Mohammed is the person who has committed the irregularity by issuing the cheques and there is no averments against the petitioner. He further submitted that there is a dispute between the administration and the

present complainant and thereby he prevented the petitioner from acting as a Treasurer and Secretary and that the petitioner moved an application before the Wakf Board Tribunal in O.A.No.36 of 2020 and the Tamil Nadu Wakf Tribunal by an order dated 07.09.2020 in I.A.No.200 of 2020 has granted injunction in favor of the petitioner. He submitted that the entire case of the prosecution is borne out of records. Hence, he prays for grant of anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor submitted that the petitioner along with other accused while managing administration of the Mosque defrauded the money of the Wakf Board to the tune of Rs.4,00,000/- (Rupees Four Lakhs Only). He further submitted that the investigation is pending. However, he opposed for grant of anticipatory bail to the petitioner.

5.Taking into consideration the facts and submissions of the learned Counsel, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

6.Accordingly, the petitioner is directed to be released on bail in the event of his arrest or on his appearance, within a period of fifteen days from the date on which the copy of the order is made ready, 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 X Metropolitan Magistrate, Egmore, Chennai, 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 respondent police daily at 10.30 a.m., for the period of two weeks and thereafter every Monday at 10.30 a.m., until further orders.

[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 229A IPC.

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

-sd/-

13/10/2020

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 X METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
P-2 OTTERI POLICE STATION,
CHENNAI-600 012.

CC to M/S.Y.KAJA NAVAS Advocate on payment of necessary charges
Sr.6865

CRL OP.16304/2020

Date :13/10/2020

RVR 21/10/2020

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