

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2020

CORAM:

THE HON'BLE DR. JUSTICE G.JAYACHANDRAN

Crl.O.P.No.16982 of 2020

1.Dr.D.Vadivel Mugundhan
2.B.Sundari
3.Dr.P.Sivagnanam
4.Dr.K.Bhuvana Kumar
5.V.Senthil Kumar @ V.Senthil
6.Dr.Srivathsan .. Petitioners/Accused

Vs.

Inspector of Police,
Central Crime Branch,
EDF-I, Team I,
Office of the Commissioner of Police,
Vepery, Chennai 600 007. ...Respondent/Complainant

PRAYER: This Criminal Original Petition has been filed under Section 438 of Cr.P.C., praying to grant anticipatory bail to the petitioners in the event of their arrest by the respondent police in Crime No.288 of 2020 dated 15.10.2020 pending investigation on the file of the respondent.

For Petitioners : Mr.V.Karthik, Senior Counsel for
M/s Adithya Varadarajan

For Respondent : Ms.T.P.Savitha,
Government Advocate

O R D E R

(The case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 409 and 420 of IPC in Crime No.288 of 2020 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the petitioners, are the erstwhile office bearers of St.Johns Ambulance Association(India), Tamil Nadu State Unit. The State Unit of this Association is presided over by the Governor of Tamil Nadu and some of the Senior Officers of the State are Ex-Officio Members. First Information Report has been

registered against these petitioners alleging as former Members of the St.Johns Ambulance Association (India), while holding the office for 9 years i.e from 2010 to 2019, they have misappropriated funds of the Association to the tune of Rs.16.00 crores.

3. It appears that as per the amended by-laws of the Association, the petitioners were elected to the Office of the Association on 23.12.2019. However, the election was not recognized by the Honorary President and he has nominated a Retired High Court Judge and Retired IAS Officer as Chairman and Secretary, respectively and few other officers as Members. This nominated Committee, which has taken charge, has found that there was falsification of accounts and misappropriation of the Association's fund and therefore, a complaint has been given to the Commissioner of Police against the petitioners herein by the nominated Honorary Secretary.

4. Pursuant to this complaint, the Inspector of Police attached to Central Crime Branch has summoned the petitioners to appear before him on 05.10.2020 at 12.00 noon with particulars as sought for. Nearly 36 questions were framed for the petitioners to answer and to provide documents. The 2nd petitioner herein had responded to the said summon addressing a letter to the Commissioner of Police dated 05.10.2020, copy marked to the Investigating Officer. Meanwhile, he has also approached the City Civil Court with a suit to declare, the nomination of the Office-bearers by the Governor as bad in law.

5. In the said circumstances, the First Information Report has been registered against these petitioners on 15.10.2020 under Sections 409 and 420 of IPC. Apprehending the arrest, the petitioners are before this Court seeking Anticipatory bail.

6. The learned Senior Counsel appearing for the petitioners would submit that the haste in which the First Information Report has been registered is in total neglect of the detailed explanation given by the 2nd respondent in response to the query gives apprehension in the minds of the petitioner. In spite of explaining, how the funds of the Association have properly accounted, audited and the same has been vouched by the Secretary of the Governor's office, based on the complaint by the nominated Honorary Secretary, whose nomination itself is disputed and subject matter of the civil suit, the false complaint has been registered against them.

7. This Court is not concerned about the locus of the complainant, since any person can set the criminal law in motion and need not be the person aggrieved. However, on going through the complaint as reflected in the First Information Report and plausible explanation given by the 2nd petitioner herein, in her letter dated 05.10.2020 addressed to the Commissioner of Police copy marked to the Investigating Officer, this Court is of the view that the First Information Report has been registered in haste, without properly verifying the content of the complaint and the explanation given thereof. The petitioners fear that the same may continue and will lead to miscarriage of justice deserves consideration. Hence, the petitioners require protection from harassment and coercive action.

8. Hence, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions:

[a] Accordingly, the petitioners are directed to be released on bail in the event of arrest or their appearance, within a period of fifteen days, before the learned Metropolitan Magistrate, CCB & CBCID Cases, Egmore, Chennai, on condition that each of the petitioners shall execute a bond for a sum of Rs.1,00,000/- (Rupees one lakh only), with two sureties each for a like sum to the satisfaction of the respondent police or to the satisfaction of the learned Magistrate concerned, as the case may be.

[b] 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.

[c] the petitioners shall personally appear before the Investigating Officer as and when required for interrogation. Further, the petitioners shall co-operate with the investigation.

[d] If there is any breach of the above conditions, it is open to the Investigating Officer to seek for cancellation of anticipatory bail.

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

[f] the petitioners shall not abscond either during investigation or trial.

[g] On failure to comply the condition or 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].

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

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

-sd/-

23/10/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

TO

1 THE METROPOLITAN MAGISTRATE
CCB & CBCID CASES, EGMORE, CHENNAI.

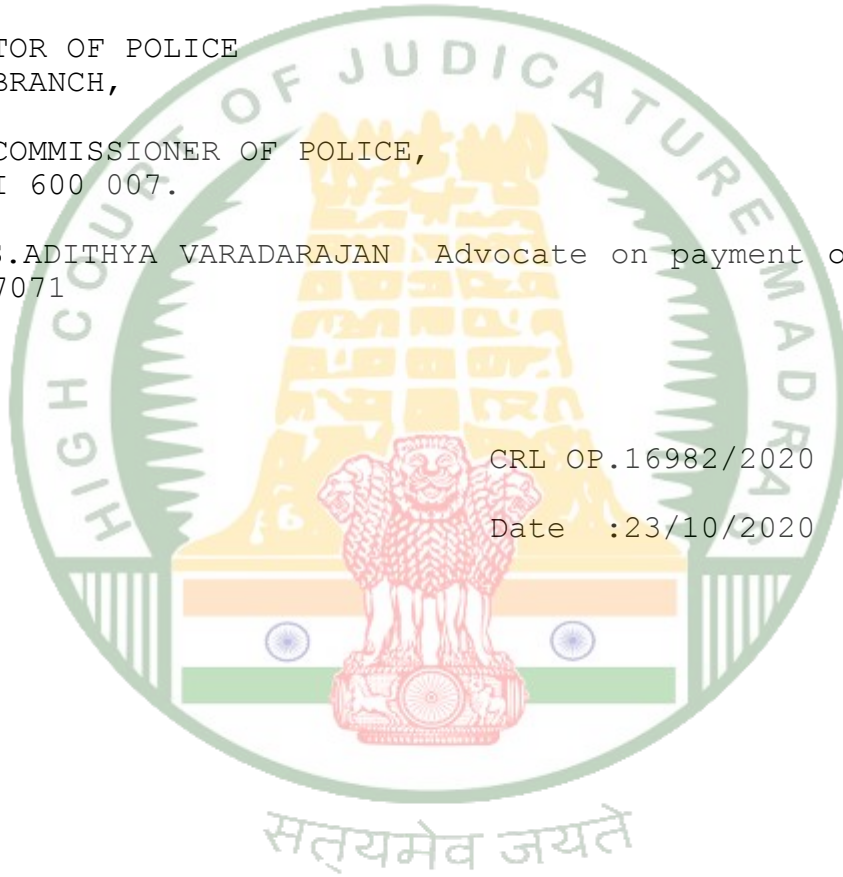
2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
CENTRAL CRIME BRANCH,
EDF-I, TEAM I,
OFFICE OF THE COMMISSIONER OF POLICE,
VEPERY, CHENNAI 600 007.

+1 CC to M/S.ADITHYA VARADARAJAN Advocate on payment of necessary
charges SR.No.7071

cs 28/10/2020



CRL OP.16982/2020

Date :23/10/2020

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