

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.12.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.18954 of 2020

P.Saravanan

... Petitioner

Vs.

State rep by

The Inspector of Police,
CBI/ACB/Chennai Police Station,
Chennai District.

(Crime No.RC MA1 2020 A 0002 of 2020) ... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of his arrest in Crime No. RC MA1 2020 A 0002 of 2020 on the file of the Respondent.

For Petitioner : Mr.R.Vivekananthan

For Respondent : Mr.Srinivasan
Spl. Public Prosecutor for CBI

O R D E R

(This Case has been heard through video conferencing)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Section 120(B) of IPC read with 7, 7A, 8 and 12 of PC Act 1988 (as amended in 2018), in Crime No.RC MA1 2020 A 0002 of 2020, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the SPE/ CBI /ACB Chennai, has registered a case in RC.MA1 2020 A 0002 CBI ACB Chennai on 04.03.2020 against A1/R.Ellavarason, the Superintending Engineer (SE) /Regional Office (RO), Ministry of Road Transport and Highways (MoRTH), Rajaji Bhavan, Besant Nagar, Chennai and A2/ Murugaboopathi, the Divisional Engineer, Tamil Nadu Highways Department, Dindugal and A3/Vetrivel, Contractor, IVLR Concrete, Iravathanallur, Ramanathapuram Main Road, Madurai and A4/ S.Ovu Reddy, JR Consultancy, Alagar Koil Road, K.Pudur, Madurai.

3.The brief allegations in the F.I.R is that A1/R.Ellavarason, in conspiracy with other accused persons demanded undue advantage fin the form of illegal gratification from A3/Vetrivel, with respect of contract pertaining to shifting of utilities awarded to A3/Vetrivel, Contractor, IVLR Concrete, Iravathanallur, Ramanathapuram Main Road, Madurai. The contract and related activities were processed through A1/R.Ellavarason, the Superintending Engineer(SE)/Regional Office(RO), Ministry of Road Transport and Highways (MORTH), Rajaji Bhavan, Besant Nagar, Chennai and the petitioner/A1 demanded undue advantage in the form of illegal gratification from A2/Murugaboopathi, through one A4/Ovu Reddy. A1/R.Ellavarason, had awarded contract relating activities pertaining to shifting of utilities to A3/Vetrivel and informed A2/Murugaboopathi on 24.02.2020 and also demanded a bribe to be paid by A3 for settlement activities, in pursuant to which, the accused had met the first accused at his office and decided to pay an amount of Rs.2.76 lakhs, at that time, on information, a trap was laid and the office of the first accused was searched and the petitioner caught red handed with an amount of Rs.2.76 lakhs on 04.03.2020, thereby, the accused were arrested in this case. Hence, the complaint.

4.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that even as per the prosecution, the allegation against the petitioner is that on the instruction of other accused, he has carried the cash of Rs.2.76 lakhs from Madurai to Chennai and other than that, the petitioner has no role in the transactions.

5.The respondent has filed a detailed Counter. The relevant paragraphs are extracted hereunder:

"2.It is submitted that SPE CBI ACB Chennai has registered a case in RC.MA1 2020 A 0002 CBI ACB Chennai on 04.03.2020 against Shri R.Ellavarason(A-1), Superintending Engineer(SE)/Regional Office (RO), Ministry of Road Transport and Highways (MoRTH), Rajaji Bhavan, Besant Nagar, Chennai, Shri Murugaboopathi(A-2), Divisional Engineer, Tamil Nadu Highways Department, Dindigul, Shri Vetrivel (A-3), Contractor, IVLR Concrete, Iravathanallur, Ramanathapuram Main Road, Madurai, Shri Ovu Reddy (A-4), J.R.Consultancy, No.5, Surya Nagar, 1st Street, Alagar Koil Road, K Pudur, Madurai and unknown others u/s. 120 B IPC r/w 7, 7A, 8 and 12 of PC Act 1988 (as amended in 2018). The F.I.R of this case is pending before the Hon'ble Principal Special Judge for CBI Cases, Chennai.

5.It is submitted that as the demand and acceptance of illegal gratification/undue advantage of Rs.2.76 lakhs was established, Shri Ellavarason (A1), Shri Murugaboopathi(A2) and Shri Ovu Reddy (A4) were arrested on 04.03.2020 duly informing the grounds of arrest, after observing all legal formalities.

11.It is submitted that during the course of investigation, the petitioner/accused Shri P.Saravanan was examined on 05.03.2020, 12.08.2020 and 22.09.2020. During the course of examination, the petitioner/accused stated that he is working as Assistant Engineer, National Highways, Ottanchathiram, Dindigul under the administrative control of Shri Murugaboopathi(A-2), Divisional Engineer, National Highways, Dindigul. He further stated that on 03.03.2020, Shri M.Murugaboopathi(A-2) handed over an amount of Rs.2.76 lakhs in the denomination of Rs.2000 X 100 and Rs.500 X 152 to the petitioner/accused Shri P.Saravanan through his technical assistant Shri.Parthiban and requested him to carry the said amount to Chennai. On the request of Shri.M.Murugaboopathi(A-2), the petitioner/accused Shri P.Saravanan carried the said amount of Rs.2.76 lakhs to Chennai, and on 04.03.2020, he handed over the same to Shri. M.Murugaboopathi(A-2) at the office of Chief Engineer, National Highways, Chennai. Subsequently Shri.M.Murugaboopathi(A-2) along with the said amount of Rs.2.76 lakhs visited the Regional Office, MoRTH, Besant Nagar, Chennai and paid to Shri R.Ellavarason(A-1) as undue advantage on behalf of Shri I.Vetrivel(A-3). During the trap proceedings, the said bribe amount of Rs.2.76 lakhs in the denomination of Rs.2000 X 100 and Rs.500 X 152 was recovered from Shri S.Ovu Reddy(A-4) at the office of MoRTH, Besant Nagar, Chennai, in the presence of independent witness on 04.03.2020.

13.It is submitted that the petitioner/accused Shri.P.Saravanan has played a vital role in the alleged payment of bribe of Rs.2.76 lakhs to Shri R.Ellavarason(A-1) by Shri M.Murugaboopathi(A-2), and the petitioner/accused Shri P.Saravanan, knowingly, brought the said amount of Rs.2.76 lakhs to Chennai, which would be used for illegal transaction.

14.It is submitted that the investigation of the case is in advance stage. The petitioner/Shri P.Saravanan has been arraigned as accused No.5 in this case. The petition/accused-5 is highly influential in nature and if bail is granted there is every possibility that he would tamper with the evidence. Hence the anticipatory bail petition of the petitioner/A5 may be dismissed."

6.The learned Special Public Prosecutor (for CBI) appearing for the respondent would submit that the petitioner is the associate of the other accused. He had carried an amount of Rs.2.76 lakhs from Madurai in order to be handed over to the main accused as bribe. However, he would submit that the custodial interrogation may not be required and that the petitioner may be directed to abide by stringent conditions so as to co-operate for investigation by appearing before the officers of the respondent at Madurai.

7.Heard the learned counsel appearing for the petitioner as well as the learned Special Public Prosecutor (for CBI) appearing for the respondent and perused the materials available on record.

8.Taking into consideration of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

(a) Accordingly, the petitioner is directed to be released on bail in the event of arrest or on his appearance within a period of fifteen days from the date on which the order copy is made ready, before the learned Principal Special Judge for CBI Cases, Chennai, on further condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only), with two sureties each for the 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 automatically;

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

[c] the petitioner shall report before the respondent police in Madurai Unit of CBI every Monday, Wednesday and Friday at 10.30 a.m., for the period of four weeks and thereafter as and when required.

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

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

[f] 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].

[g] 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/-
17/12/2020

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,
CHENNAI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
CBI/ACB/CHENNAI POLICE STATION,
CHENNAI DISTRICT.

5 THE OFFICER INCHARGE,
MADURAI UNIT OF CBI,
MADURAI.

+1CC to M/S R.VIVEKANANTHAN Advocate on payment of necessary charges SR NO.8407

CRL OP.18954/2020

Date :17/12/2020

MK:04/01/2021



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