

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.12.2020

CORAM :

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

CRL.O.P.Nos.19125 & 19143 of 2020

Kumaresan

... Petitioners in both Crl.O.Ps

Vs.

The State Rep. By ... Respondent in all Crl.O.Ps
The Sub-Inspector of Police,
Maruthur Police Station,
Cuddalore District.
(Crime No.12 of 2018 &
Crime No.258 of 2020)

COMMON PRAYER: Criminal Original Petitions is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime Nos.12 of 2018 and 258 of 2020 on the file of the respondent police.

For Petitioner in : Mr.G.Pugazhenthir
both Crl.O.Ps

For Respondent in : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)
both Crl.O.Ps

COMMON ORDER

(These cases have been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 25.10.2020 for the offences punishable under **Sections 420, 465, 467, 468, 471 of IPC in Crime No.12 of 2018** and for the offence punishable under **Sections 420, 465, 467, 468, 471, 477 (A) and 120 (B) of IPC, in Crime No.258 of 2020** on the file of the respondent police, seeks bail.

2. Crl.O.P.No.19125 of 2020 : The case of the prosecution as per the defacto complainant Block Development Officer (Village Panchayat) Mel Bhuvanagiri Panchayat Union, is that an audit was conducted by the Project Director, District Rural Development Agency and it was found that for the year during 2014-2015 and 2015-2016, the president and Vice President of the Village by

fabrication of documents and without getting proper approval and sanction and without getting advice slip from the Block Development Officer, unilaterally issued several cheques to the tune of Rs.17,13,731/- and cheated the Government.

3. In Cr1.O.P.No.19143 of 2020: The case of the prosecution as per the defacto complainant Block Development Officer (Village Panchayat) Mel Bhuvanagiri Panchayat Union, is that an audit was conducted by the Project Director, District Rural Development Agency and it was found that for the year during 2017 -2018, the president and Vice President of the Village by fabrication of documents and without getting proper approval and sanction and without getting advice slip from the Block Development Officer, unilaterally issued five cheques out of which two cheques for a sum of Rs.38,302 /- each, were issued in favour of the petitioner and cheated the Government.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. He would further submit that he is the Contractor of the Panchayath and he was entrusted to construct 21 houses for beneficiaries under the Green House Project by Block Development Officer. The petitioner had completed 10 houses and 4 houses were constructed up to roof level and 7 houses were constructed up to lintel level and that the petitioner has supplied Bricks and sand for completing the incomplete houses. While so, the President of the Panchayat had issued cheques to the petitioner and he had believed that the cheques were issued towards the construction payment and thereby, he had received them. Other than that the petitioner did not commit any offence and he not colluded with the main accused. He would further submit that out of the alleged 61 cheques only 4 cheques were given in favour of the petitioner to the tune of Rs.1,40,528/-. The learned Counsel for the petitioner would submit that in so far as the case in Crime No.258 of 2020 is concerned, the petitioner was issued two cheques to the tune of Rs.76,604/- and that the petitioner received them only on the belief that they were issued towards payment of construction and that the petitioner had not committed any offence as alleged by the prosecution. He would submit that the petitioner earlier approached this Court for anticipatory bail in Crime No.12 of 2018 and this Court was pleased to grant him anticipatory bail on condition to deposit a sum of Rs.4 lakhs to the credit of crime number. However, since, the petitioner had been suffering severe loss in the Contract, he was unable to pay the amount and thereby, he had filed a modification petition and this Court had directed the petitioner to furnish documents of immovable properties to the worth of Rs.25 lakhs. Since, the petitioner was unable to furnish the same, the petitioner had surrendered before the respondent police and he has been in judicial custody for 55 days. Hence, he prays for grant of bail.

4. The learned Government Advocate (Criminal Side) would vehemently oppose stating that the petitioner had colluded with the President and Vice President of the Village Panchayat and they have

issued certain cheques in favour of the petitioner by fabrication of documents and without obtaining approval from the Block Development Officer. Insofar as Crime No.12 of 2018 is concerned, the petitioner has cheated the Government to the tune of Rs.1,40,528/- and in Crime No.258 of 2020 is concerned, he has cheated the Government to the tune of Rs.76,604/-. He would further submit that the investigation is pending.

5. At this juncture, the learned Counsel for the petitioner would submit that the entire case is borne out by documents and that the petitioner admits that he received the said amounts under the impression that they were paid towards Contract work.

6. Taking into consideration of the facts and circumstance of the case and the submissions made by the learned counsels and also taking into consideration the period of incarceration suffered by the petitioners, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties each for a like sum to the satisfaction of the learned **Judicial Magistrate No.I, Chidambaram, Cuddalore District**, and on further conditions that:

(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 on his release from prison shall report before the respondent everyday at 10.30 a.m. until further orders.

(d) the petitioner shall not commit any offences of similar nature;

(e) the petitioner shall not abscond either during investigation or trial;

(f) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g) on breach of any of the aforesaid conditions, the learned Judicial 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];

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

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

-sd/-
18/12/2020

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 JUDICIAL MAGISTRATE NO.I,
CHIDAMBARAM, CUDDALORE DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUB-INSPECTOR OF POLICE,
MARUTHUR POLICE STATION,
CUDDALORE DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

CC to M/S.G.PUGAZHENTHI Advocate on payment of necessary charges

CRL OP.19125 & 19143/2020

Date :18/12/2020

TA-21/12/2020

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