

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :23.12.2020

CORAM :

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

Crl.O.P.No.20165 of 2020

in

C.C.No.3627 of 2017

G.Ganesan
S/o.Gopalasamy

... Petitioner

Vs.

The Assistant Commissioner of Police,
Job-Racket Wing Team,
Central Crime Branch,
Chennai.
(Crime No.441 of 2015)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code praying to enlarge the petitioner on Bail in C.C.No.3627 of 2017 pending on the file of CCB & CBCID Metropolitan Magistrate Egmore, Chennai.

For Petitioner : Mr.S.Prabakaran
Senior Counsel
for Mr.G.Mohanakrishnan

For Respondent : Mr.A.L.Somayaji
Special Senior Counsel for Government
Asst. by Mr.M.Mohamed Muzammil
Government Advocate (Criminal Side)

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested on 20.11.2020 for the offences punishable under Sections 406, 420, 419, read with 34 IPC and then under sections 120(B), 465, 468, 471, 420 and 201 IPC Section 7, 12, 13 (2) read with 13(1) (d) of the Prevention of Corruption Act, 1988 and 109 IPC read with 13 (2) read with 13(1) (d) of the Prevention of Corruption Act, 1988 and altered into 120 (B), 465, 468, 471, 420 & 201 IPC and Section 7, 12, 13(2) read with 13 (1) (d) of the Prevention of Corruption Act, 1988 and 109 IPC read with 13 (2) read with 13(1) (d) of the Prevention of Corruption Act 1988 in Cr.No.441 of 2015 on the file of the respondent police, seeks bail.

2. This petition has been filed for grant of bail on the ground that the petitioner/accused has been in custody for more than 42 days and the

custodial interrogation is also over, hence it is the submission of the learned senior counsel appearing for the petitioner that A1 was already granted Anticipatory Bail in this case and the petitioner has been implicated by political influence and there is no reference whatsoever as to the petitioner. Similarly charge sheet has been filed pursuant to the order passed by this Court. Initially, there was no allegation made against this petitioner. Only after further investigation by the time when A1 switched over to another political party, further investigation started and this petitioner was summoned by investigation officer on several times by issuing notice under Section 41A. Thereafter, the petitioner was arrested on 11.11.2020. In order to take vengeance against A1, who has switched over to another political party, this petitioner being Government servant has been roped in unnecessarily. At any event his custodial interrogation is over. Hence prayed for bail.

3. The learned Special Senior Counsel appearing on behalf of the Government submitted that it is a clear case of job racket and the petitioner being the Managing Director in Metropolitan Transport

Corporation has invited the applications for filling up the 1670 jobs and almost 12750 applications were introduced and 7750 applications were found eligible and the entire list was prepared by the petitioner/accused at the instance of A1. It is further submitted that search at 17 premises has been conducted and incriminating materials were seized from the accused, the same clearly indicate that there is a clear case of job racketing. His further contention is that Sections have been altered under the prevention of Corruption Act and also IPC offences under sections 406, 420, 419, read with 34 IPC and then under sections 120(B), 465, 468, 471, 420 and 201 IPC Section 7, 12, 13 (2) read with 13(1) (d) of the Prevention of Corruption Act, 1988 and 109 IPC read with 13 (2) read with 13(1) (d) of the Prevention of Corruption Act, 1988 and altered into 120 (B), 465, 468, 471, 420 & 201 IPC and Section 7, 12, 13(2) read with 13 (1) (d) of the Prevention of Corruption Act, 1988 and 109 IPC read with 13 (2) read with 13(1) (d) of the Prevention of Corruption Act 1988. Hence prayed for dismissal of this petition.

4. Perused the materials. The law is said to have set into motion on the basis of the information provided by Devasagayam. Originally crime was registered under Section 420 IPC and FIR was registered in Crime No.441 of 2015 on 29.10.2015. In the entire FIR there is no allegation whatsoever made against this petitioner. Thereafter another complaint was also lodged on 07.03.2016 and pursuant to the above complaint a direction was issued by this Court in Criminal O.P.No.7503 of 2016 wherein a direction was issued to Assistant Commissioner of Police Central Crime Branch to take over the investigation in Crime No.441 of 2015, i.e., namely the original complaint. Based on the above directions investigation was carried out and final report has been filed for the offences punishable under Sections 120(B), 465, 468, 471, 420 and 201 IPC.

5. The charge sheet appended to the typed set indicate that 76 witnesses were examined and 12 people were arrayed as accused, wherein also there is no whisper or allegation made against this

petitioner. Thereafter it appears that on 27.11.2009, at the instance of one Arun Kumar, a third party, this Court had passed an order directing the further investigation pursuant to which it appears prosecution has conducted further investigation and pursuant to the further investigation notice is also sent to the petitioner for enquiry under Section 41 Cr. P.C. and he was examined on 14.12.2020 and 02.11.2020 and finally, on 11.11.2020, he was arrested. It is the contention of the prosecution that search was conducted in 17 places and incriminating materials have also been seized. As per the submissions of the learned Special Senior Counsel, though serious allegations appears to have been made and more than 2209 vacancies have been filled by the petitioner at the instruction of the Transport Minister and now the said Minister has been switched over to other party, this Court is at loss to understand as to how a person who had gained wrongful entry still allowed to continue their respective job and no action has been taken by the Government. Be that as it may.

6. The so called Minister who was originally with the ruling party and now switched over to other political party, has already obtained anticipatory bail and anticipatory bail has been granted by this Court on 07.02.2020 itself. Of course at the relevant point of time Sections were not altered under Prevention of Corruption Act. Be that as it may.

7. Even after alleged serious materials unearthed during further investigation, no action was taken by the prosecution either to cancel his anticipatory bail or any further action in this regard as against A1 who is said to be the main culprit. Whereas, this petitioner is only an employee of the Transport Corporation and A1 was the Minister at the relevant point of time. Be that as it may.

8. The way in which the investigation proceeded and the prosecution is keeping silent with regard to the illegal appointment, this Court is of the view that the petitioner is already in custody for more than 42 days and custodial interrogation is also completed and no further custody is required to seize any material from him. It is a definite case of

prosecution that incriminating materials were already seized from the petitioner. In such view of the matter keeping this petitioner under custody for further period, infact will not serve any purpose for prosecution. Considering A1 is already granted anticipatory bail by this Court, this Court is inclined to grant bail to the petitioner with the following conditions.

- (i) that the Petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees fifty thousand only) with two sureties each for a like sum to the satisfaction of the Special Court for trial, CCB & CBCID, Egmore, Chennai.
- (ii) that the sureties shall affix their photographs and Left Thumb Impressions in the surety bond and the Magistrate concerned may obtain a copy of their Aadhar Cards or Bank Pass Books to ensure their identity;
- (iii) that the Petitioner shall report before the Special Court for trial, CCB & CBCID, Egmore, Chennai. daily at 10.30 a.m. until further orders;
- (iv) that the Petitioner shall not tamper with evidence or witness during investigation;
- (v) that the Petitioner shall not abscond during investigation; and
- (vi) that the Petitioner shall immediately surrender his passport to the Learned Magistrate concerned under Written acknowledgment.

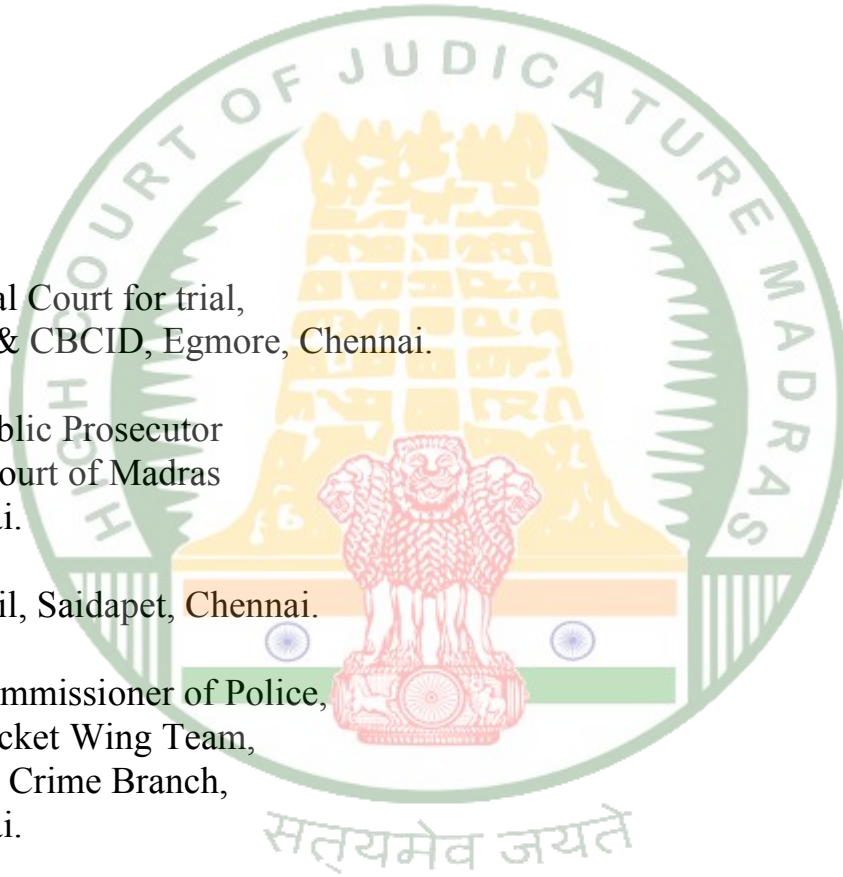
9. If any of the aforesaid conditions are not complied, the bail granted shall stand cancelled.

23.12.2020

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To

1. Special Court for trial,
CCB & CBCID, Egmore, Chennai.
2. The Public Prosecutor
High Court of Madras
Chennai.
3. Sub Jail, Saidapet, Chennai.
4. The Commissioner of Police,
Job-Rocket Wing Team,
Central Crime Branch,
Chennai.

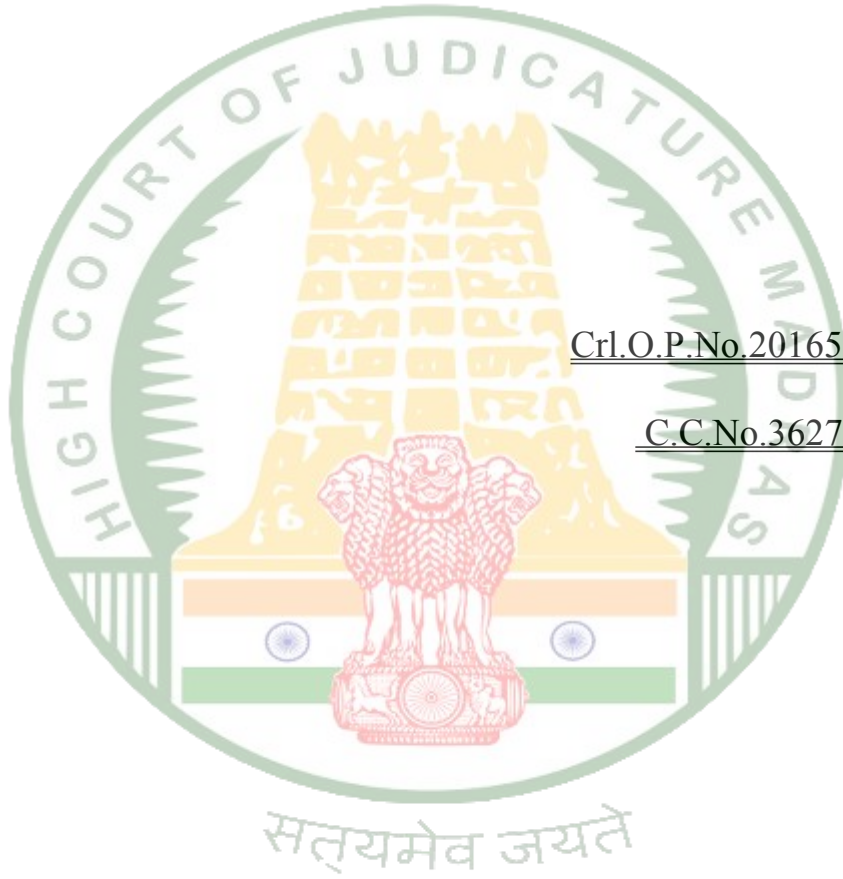


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