

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Cr1.O.P.No.800 of 2021

T.S.Elangovan

... Petitioner

Vs.

The State rep. by
The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Dharmapuri.
(Crime No.5/AC/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. 5/AC/2020 pending on the file of the respondent.

For Petitioner : Mr.S.Ganesh

For Respondent : Mr.S.Karthikeyan
Addl. Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner is arrayed as A1. He apprehends arrest at the hands of respondent police for the offence punishable under Sections 7 and 12 of the Prevention of Corruption Act, 1988 in Crime No.5/AC/2020 on the file of respondent police and now, he has filed the above petition seeking for anticipatory bail.

2. The case of the prosecution is that the petitioner is working as Assistant Engineer, Highways Department (C&M), Palacode Sub-Division, Dharmapuri Dt. On 12.11.2020, a surprise check was conducted by the Deputy Superintendent of Police, Krishnagiri, i/c. Dharmapuri, wherein, the petitioner was found in possession of Rs.65,000/- and another accused was found in possession of more than Rs.7,00,000/- and they are not able to account the money. In the said circumstances, the criminal case has been registered against the petitioner and now, apprehending arrest, he is seeking anticipatory bail.

3. The learned counsel appearing for petitioner would submit that the petitioner is only working as Assistant Engineer in Highways Department and the money carried out by him is his private money and it was duly accounted money. He would submit that the petitioner has offered his explanation for that amount, but without considering his explanation, the respondent had seized the money and registered a case against him. He would submit that the petitioner is an innocent person and he is no way connected with the offence as alleged in the complaint. He would submit that he has been falsely implicated as accused in this case. Hence, he prays to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent opposed this petition on the ground that this petitioner was found in possession of Rs.65,000/- and he was not able to explain the statement for the unaccounted money. Hence, a criminal case has been registered against him. The respondent has filed a counter affidavit and stated that at this stage, the custodial interrogation of the petitioner is not required and only they are going to issue a notice under Sec.41(A) of Cr.P.C. The relevant portion of the counter affidavit in para 9 is extracted hereunder :-

"9) I further submit that this case has been registered on the prima facie evidence collected so far. The investigation is at the preliminary stage. The custodial interrogation of the petitioner/A1 is not warranted, however, the co-operation of the petitioner/A1 is warranted and hence, I have proposed to exercise the provision of Section 41(A) of Cr.P.C. Even though the petitioner/A1 is likely to dissuade the witnesses and tamper the evidences, if enlarged in anticipatory bail."

5. Taking into consideration the fact that, in view of the submission made in the counter affidavit filed by the respondent that they are proposed to issue a notice under Section 41(A) of Cr.P.C. to the petitioner, the petitioner is directed to co-operate with the enquiry and also considering the fact that the respondent itself has submitted that they do not want custodial interrogation, this Court is inclined to grant anticipatory bail to the petitioner, subject to the following conditions:

a) Accordingly, the petitioner is ordered to be released on bail, in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before **the learned Chief Judicial Magistrate and Special Judge for Vigilance and Anti-Corruption, Dharmapuri** on condition that the petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties, 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 Magistrate concerned, and on further condition that:

[b] 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 petitioner shall appear before the respondent police daily at 10.30 a.m. until further orders and he shall also co-operate with the enquiry ;

[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 petitioners 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.

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

-sd/-
09/02/2021

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

सत्यमेव जयते
TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE CHIEF JUDICIAL MAGISTRATE
AND SPECIAL JUDGE FOR VIGILANCE
AND ANTI-CORRUPTION, DHARMAPURI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE DEPUTY SUPERINTENDENT OF POLICE,
VIGILANCE AND ANTI-CORRUPTION,
DHARMAPURI.

+1 CC to M/S. S.GANESH Advocate on payment of necessary
charges SR.NO.1325

CRL OP.800/2021

Date :09/02/2021

TA-11/02/2021



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