

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18..02..2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Crl.O.P.No.1552 of 2021

Kaja Maidheen

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
Poraiyar Police Station,
Nagapattinam District.
[Crime No.850 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.850 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mr.K.Balu

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

O R D E R

(The case has been heard through video conference)

The petitioner, who apprehends arrest in connection with the case in Crime No.850 of 2020 on the file of the respondent police for the alleged offences punishable under Sections 465 and 466 of IPC, is before this court seeking anticipatory bail.

2. The petitioner is said to have joined the services of the Sea Fishermen Cooperative Society, Tharangambadi. But, at a later point of time, when an occasion arose to verify the validity of order of appointment, it was found the petitioner had managed to joint the services of the society by producing a forged order of appointment. Therefore, a case has been registered against him on a complaint from the Managing Director, Tamil Nadu State Head Fisheries Co-operative Browsing Limited [In short "TAPCOPET"], Nandanam, Chennai.

3. The learned counsel for the petitioner would submit that the petitioner originally joined the services of Sea Fishermen Cooperative Society, Tharangambadi as Junior Assistant and he was appointed to the post pursuant to a resolution of the society and was posted in a fuel station run by the society. Subsequently, the fuel station was taken over by TAPCOPET and the petitioner continued to work in the fuel station. However, no salary has been paid thereafter. Therefore, the petitioner had no other option except to

approach the higher authorities by way of representation for fixation of pay and arrears of salary and a decision is yet to be taken on the same. While so, all of a sudden, a complaint has been lodged against him as if he had managed to get appointment by producing a forged order of appointment.

4. The learned counsel for the petitioner would further submit that the petitioner has not committed any offence as alleged by the prosecuting agency and he has been falsely implicated in the case. The learned counsel would take this court through the various communications between the officials of the department and the resolutions of the cooperative society with regard to appointment of the staff including petitioner and fixation of pay. However, for the reasons best known to the officials have proceeded to lodge a criminal complaint alleging forgery against the petitioner.

5. The learned Additional Public Prosecutor would strongly oppose the petition stating that during verification by the officials, it was found that there was no such appointment made and the petitioner had managed to join the services of the society as Junior Assistant by producing a forged order of appointment as if it was given by the Additional Director and the investigation is at initial stage. According to him, the nature of accusation necessitates custodial interrogation of the petitioner.

6. I have considered the rival submissions and perused the records carefully.

7. The fuel station was originally run by Fishermen Cooperative Society, Tharangambadi which was later on taken over by TAPCOPET. Though the petitioner and one Panneerselvam were originally appointed as Junior Assistant and Pumpman respectively in the fuel station by the society followed by a resolution passed by the society and subsequently, on taking over the fuel station by TAPCOPET, and request was made to TAPCOPET to absorb the petitioner and the other staff in service. The resolutions of the society dated 28.11.2019 and 06.12.2019 prima facie strengthen the plea of the petitioner. There were also several communications between the officials with regard to fixation of pay. In fact, the Addl. Director, Fisheries Department, Nagapattinam, has also made recommendation to regularise the services of the petitioner and others and for fixation of pay. The allegation is that the petitioner had managed to join as Junior Assistant by producing a forged order of appointment as if it was issued by the Additional Director. The investigation is borne out of records and the petitioner was very much available and it is not the case of the respondent that after the registration of the case the petitioner has absconded. The petitioner has root in the society and this court is informed that the petitioner has been attending duty regularly. Considering the above and all other circumstances of the case, 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 Judicial Magistrate, Tharangambadi, Nagapattinam District on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) 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, failing which, the petition for anticipatory bail shall stand dismissed 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 make himself available for interrogation as and when required by the police.

[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.

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

-sd/-

18/02/2021

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

TRUE COPY

WEB COPY

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

TO

1 THE JUDICIAL MAGISTRATE,
THARANGAMBADI

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM(FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

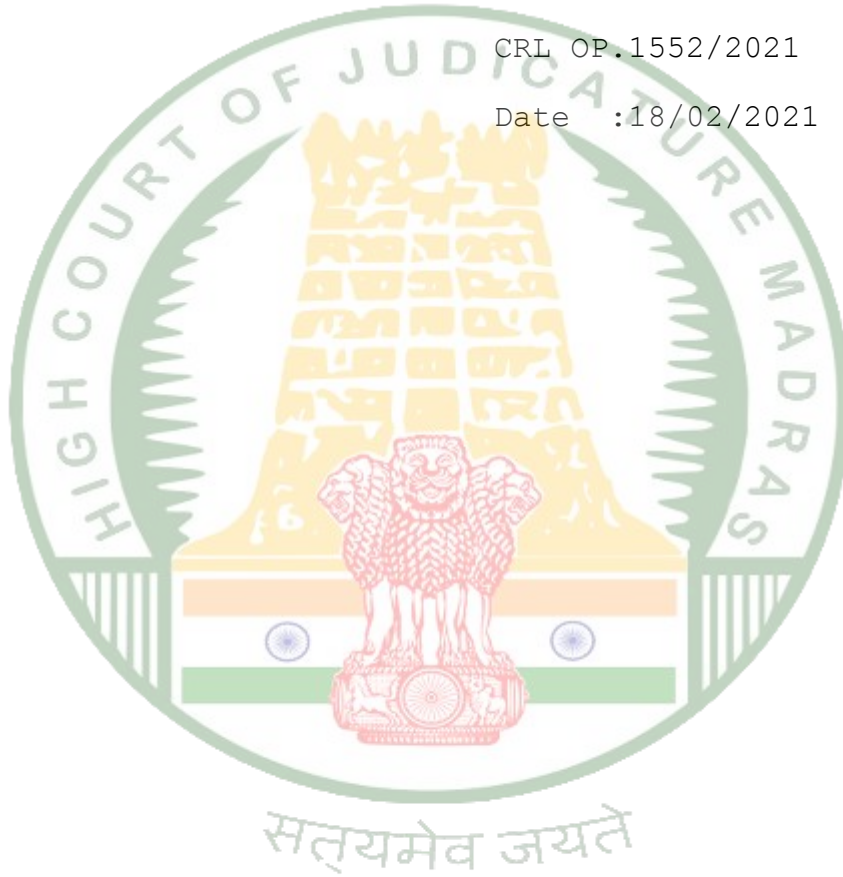
4 INSPECTOR OF POLICE,
PORAIYAR POLICE STATION,
NAGAPATTINAM.

CC to M/S K.BALU Advocate on payment of necessary charges
Sr.1990

CRL OP.1552/2021

Date :18/02/2021

RVR 25/02/2021



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