IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.05.2021

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

Crl. O.P.No.7296 of 2021

K.Paunraj .. Petitioner/ Single Accused

Vs.

The State Represented by
The Inspector of Police,
District Crime Branch,
Coimbatore District. .. Respondent/ Complainant
[Crime No.14 of 2021]

Prayer: Criminal Original Petition filed for anticipatory bail under Section 438 of Criminal Procedure Code.

For Petitioner : Mr.V.Karthik, Senior Counsel for M/s.S.Sujatha

For Respondent : Mr.T.Shunmugarajeswaran Government Advocate

O R D E R

(The matter is heard through "Video Conferencing/Hybrid mode")

The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 408 & 420 IPC r/w 13(1) c,13(1)(d)(i),13(1)(d)(ii),13(1)(d)(iii) & 13(1)(e) of the Prevention of Corruption Act, 1988 in Crime No.14 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that in order to misappropriate the public fund, the petitioner who is the Municipal Commissioner, Valparai, Coimbatore, has committed breach of trust by splitting a single civil work into 41 work orders to bring the estimate value below 10 Lakhs and by misusing his official power, made advance payments to Contractors for his personal gain on 25.02.2021. The petitioner also made payments to the Contractors for amounts higher than the estimated cost of each work, though the administrative sanction power of the Municipal Commissioner is only up to 10 Lakhs. Further, 9 works were started by the Contractors on 26.02.2021 without obtaining prior permission from the Election Commission. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that case has been registered due to some previous motive between the petitioner and his higher authority. Further, he submitted that before the investigation started, the mandatory sanction that is required to be obtained under Section 17(A) of the Prevention of Corruption Act is also not obtained and that the FIR was also not registered under the correct provisions of the law and the case has been registered under those provisions which have been already repealed.

4.The learned Government Advocate appearing for the respondent objected that the petitioner with an intention to misappropriate the Government funds, had segregated one civil work into 41 work orders and allotted them to 41 different persons and made payments to them without getting due permission from the appropriate authority.

5.The lapse on the part of the petitioner appears to be a serious dereliction of duty. However, the alleged loss due to the lapses committed by the petitioner is not quantified. The investigation has been started without obtaining previous sanction from the Appropriate Authority under Section 17(A) of the Prevention of Corruption Act. Had the sanction proceedings issued, that would have thrown more light on the nature of the lapse committed by the petitioner. The petitioner was not placed under suspension and he has been just relieved from the post which he was holding at the time of the alleged occurrence.

6.Considering the above facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions. 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 on which the order copy made ready, before the learned Judicial Magistrate, Valparai, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each 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:

(a) the petitioner and 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.

(b) the petitioner shall report before the respondent police daily at 10.30 a.m for a period of two weeks and thereafter as and when required for interrogation.

(c) the petitioner shall not tamper with evidence or witness either during investigation or trial.

(d) the petitioner shall not abscond either during investigation or trial.

(e) 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].

(f) If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

-sd/-
05/05/2021

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,
VALPARAI

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE(FOR INFORMATION)

3 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
COIMBATORE DISTRICT

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.S.SUJATHA Advocate on payment of necessary charges
Sr.5794

CRL OP.7296/2021

Date :05/05/2021

RVR 12/05/2021