



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.12784 of 2021

K.C.P.Surender Goundar

... Petitioner

Versus

Inspector of Police,
CCB, EDF-I, Team-II,
Vepery, Chennai-600 007.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to grant Anticipatory Bail to the petitioner by enlarging him on bail in the event of petitioner's arrest by the respondent police in C.C.No.20 of 2020 on the file of the Additional Special Judge for Trial of Cases Related to Members of Parliament and Members of Legislative Assembly of Tamil Nadu.

For Petitioner : Mr.B.Kumar, Senior Counsel and
Mr.Thiageswaran for Mr.P.Neethi Kumar

For Respondent : Mr.Hasan Mohammed Jinnah
State Public Prosecutor

ORDER

This Criminal Original Petition has been filed to grant Anticipatory Bail to the petitioner, who is facing trial in C.C.No.20 of 2020, for offence under Sections 403, 406, 418, 420, 465, 471, 477-A r/w 120-B, 423 r/w 511 of IPC before the learned Additional Special Judge for trial of cases related to the Members of Parliament and Members of Legislative Assembly of Tamil Nadu, Egmore, Chennai.

2.The gist of the case is that in this case, A1 is the Managing Director of M/s.Cheran Enterprises Private Limited. A1 had misappropriated the properties of the said company and had cheated its foreign investors. It was alleged that A1 was entrusted with dominion over the money of the said company



WEB GATES

maintained in the bank account and that the money was misappropriated and dishonestly transferred to the account of the other accused and thereby, defrauded the said company and caused wrongful loss to them. The accused by creating forged documents, false and fraudulent entries in the books/statutory records of the said company and falsified the records. Initially, the complaint was lodged by the defacto complainant before the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai, which was forwarded under Section 156(3) of Cr.P.C., to the respondent Police. Thereafter, a case in Crime No.87 of 2008 came to be registered against the accused.

3.The learned Senior Counsel appearing for the petitioner submitted that the petitioner is an educated person from America. During the alleged occurrence in the year 2004-2005, he was in America and pursuing his studies. The only sin of the petitioner is that Al in this case happens to be his father, who is the former Member of Parliament, a political activist. Since he had connection with the persons in power, the petitioner's father was implicated in various cases. For the offence committed by the petitioner's father, the petitioner has been falsely implicated in this case. The learned Senior Counsel further submitted that the petitioner has nothing to do with the offence committed by his father. Since the petitioner was in America, he was not aware about the pendency of the above case.

4.The learned Senior Counsel further submitted that in this case, one of the co-accused had filed Quash Petition before this Court in Crl.O.P.No.4213 of 2017 and stay was granted on 28.02.2017 and thereafter, nothing happened. After formation of the Special Court for the Members of Parliament and the Members of Legislative Assembly of Tamil Nadu, the case has been transferred to the Additional Special Judge for Trial of Cases related to Members of Parliament and Members of Legislative Assembly of Tamil Nadu, Egmore, Chennai and taken on file as C.C.No.20 of 2020. Thereafter, the trial Court had taken the case on hearing and followed the guidelines issued in the case reported in "2018 SCC 310 in the case of Asian Resurfacing of Road Agency Pvt. Ltd., and Another Vs. Central Bureau of Investigation", that "no stay is perpetual and the stay granted is only for a limited period of six months, unless it is extended, the same is deemed to be vacated automatically" and issued NBW against the petitioner on 05.03.2021. Based on which, the petitioner apprehends arrest.

5.The learned State Public Prosecutor appearing on behalf of the respondent Police submitted that the alleged offence said to have taken place during the period 2004-2005. Since there was no action taken on the complaint, the defacto complainant filed a complaint before the learned Additional Chief Metropolitan



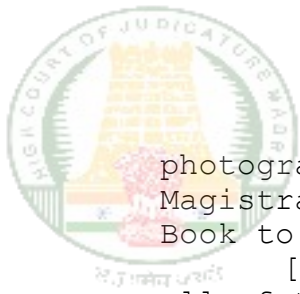
Magistrate, Egmore and the same has been forwarded under Section 156(3) Cr.P.C., to the respondent Police. On receipt of the same, the respondent Police registered an FIR, conducted investigation and filed the charge sheet. During the pendency of the trial, A1 filed a Quash Petition before this Court in CrI.O.P.No.4213 of 2017 and obtained stay and thereafter, the case could not be progressed. After formation of the Special Court for the Members of Parliament and the Members of Legislative Assembly of Tamil Nadu, steps have been taken for early disposal of the case. Despite the petitioner was aware about the pendency of the above case, he failed to appear before the trial Court. Hence, the trial Court had issued NBW against him.

6.This Court considered the rival submissions and perused the materials available on record.

7.During the occurrence, the petitioner was in America, pursuing his studies. The respondent after completion of investigation, filed the charge sheet by showing the petitioner as absconding accused. During the pendency of the case, A1 had filed a Quash Petition in CrI.O.P.No.4213 of 2017, in which this Court had granted interim stay on 28.02.2017 and it has been extended further up to 23.01.2018. Thereafter, the stay was made absolute. The Quash Petition was posted for final hearing on 02.04.2018 and thereafter, the case could not be listed. Hence, the petitioner was under the impression that the stay is in force. Now, the trial Court following the guidelines of the Hon'ble Apex Court in the case of Asian Resurfacing (cited supra) proceeded with the case and issued NBW against the petitioner. It is seen that the father of the petitioner is A1. Now, the petitioner is residing along with his father in the address given.

8.Taking into consideration of the 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 Additional Special Judge for Trial of Cases related to Members of Parliament and Members of Legislative Assembly of Tamil Nadu, Egmore, Chennai on condition that the petitioner shall appear before the trial Court on the next hearing date i.e., on 16.08.2021 and 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 learned Judge concerned, failing which this petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties shall affix his



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 appear before the trial Court on all future hearings dates either in person or through his counsel.

[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 absconds, a fresh FIR can be registered under Section 229A IPC.

9. Accordingly, this Criminal Original Petition is ordered.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional Special Judge for Trial of Cases
related to Members of Parliament and
Members of Legislative Assembly of Tamil Nadu,
Egmore, Chennai.
2. The Inspector of Police,
CCB, EDF-I, Team-II,
Vepery, Chennai-600 007.
3. The Public Prosecutor,
High Court, Madras.

+2ccs to M/s.Waradn & Sairams, Advocate, S.R.No.37487

CRL.O.P.No.12784 of 2021

CP(CO)
RLP(09/08/2021)