



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 09/03/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) . No.3638 of 2021

R.Nageshwaran

... Petitioner/ Sole Accused

Vs

State rep.by,
The Inspector of Police,
Vigilance and Anti-Corruption Wing,
Thanjavur, Thanjavur District.
(Crime No.4 of 2021).

... Respondent/Complainant

For Petitioner : M/s.Venkatesh.V.S.,
Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

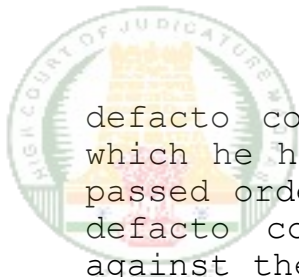
PRAYER :-

For a Bail in Crime No.4 of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/sole accused, who was arrested and remanded to judicial custody on 25.02.2021 for the offences punishable under Sections 7(b) of Prevention of Corruption(Amended) Act, 2018 on the file of the respondent police seeks bail.

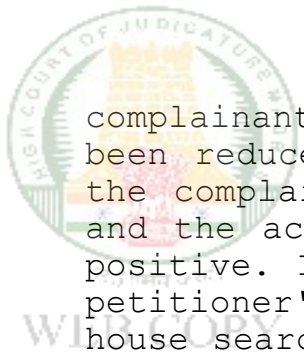
2.The case of the prosecution is that the petitioner was working as Assistant Director, Town and Country Planning , Thanjavur. The defacto complainant had purchased plot No.24(4800 sq.ft)and registered the same vide document no. 5723 of 2013 before the District Registrar Joint-I, Thanjavur and in the said land the



defacto complainant decided to construct commercial building, for which he had applied for plan approval . The Assistant Director had passed orders regarding the charges to be paid on 05.02.201 and the defacto complainant had also paid the charges. The allegation against the petitioner is that when the defacto complainant had gone to the office of the petitioner and enquired regarding the status of his application the petitioner initially demanded Rs.1,50,000/-as bribe and also said that the application has been sent to Collectorate for field inspection and asked the defacto complainant to come back after he receive the application from the Collectorate. Thereafter the defacto complainant had demanded the petitioner to reduce the demand hence the demand was reduced to Rs.1,00,000/-. Further on 24.02.2021 the defacto complainant again went to the petitioner's office and the demand reduced to Rs.25,000/- to be paid in order to receive the order. Since the defacto complainant not wiling to pay the amount he had lodged complaint to the respondent herein who had registered the case. Thereafter following the procedures entrustment mahazhar was prepared and the defacto complainant along with official witness had met the petitioner and handed over the bribe amount The respondent after getting pre arranged signal had caught the petitioner red handed, conducted phenolphthalein test which turned positive, money recovered and the petitioner was arrested and remanded to judicial custody on the same day. In continuation to the arrest search was conducted at the petitioner's residence in Trichy and inventory was taken. Hence the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is innocent and a false case has been foisted against him. Trap has been completed in all aspects and only awaiting chemical analysis report. Hence the continuous detention of the petitioner is not necessary, hence he seeks bail.

4. The learned Government Advocate(Crl.side) would submit that petitioner was working as Assistant Director, Town and Country Planning , Thanjavur. The defacto complainant had purchased plot No.24(4800 sq.ft)and registered the same vide document no. 5723 of 2013 before the Sub Registrar Joint-I, Thanjavur and in the said land the defacto complainant decided to construct commercial building, for which he had applied for plan approval . The Assistant Director had passed orders regarding the charges to be paid on 05.02.201 and the defacto complainant had also paid the charges. The allegation against the petitioner is that when the defacto complainant had gone to the office of the petitioner and enquired regarding the status of his application the petitioner initially demanded Rs.1,50,000/-as bribe and also said that the application has been sent to Collectorate for field inspection and asked the defacto complainant to come back after he receive the application from the Collectorate. Thereafter the defacto complainant had demanded the petitioner to reduce the demand hence the demand was reduced to Rs.1,00,000/-. Further on 24.02.2021 the defacto



complainant again went to the petitioner's office and the demand has been reduced to Rs.25,000/- to be paid to receive the order. On the complaint lodged by the defacto complainant trap was conducted and the accused was caught red handed. Phenolphthalein test proved positive. In continuation to the arrest search was conducted at the petitioner's residence in Trichy and inventory taken. During the house search on 25.02.2021 an amount of Rs.14.10 lakhs was seized. Also the locker of the wife of the accused was checked on 01.03.2021 and Rs.11.50lakhs was seized and the locker of the daughter of the accused was checked on 06.03.2021 and Rs.11.50 was seized. Further the other lockers maintained by the accused are yet to be checked. Be that as it may.

5. Taking note of the above facts and circumstances of the case and also taking into consideration the period of incarceration and also taking note of the fact that the petitioner's house was searched and detailed inventory taken and recorded, this Court is inclined to grant bail to the petitioner subject to the following conditions:

6. Accordingly, the petitioner is ordered to be released on bail on his executing 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 Chief Judicial Magistrate, Thanjavur at Kumbakonam.

i) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity

ii) the petitioner shall report before the respondent police daily at 10.30 a.m until further orders.

iii) the petitioner shall not tamper with evidence or witness.

iv) the petitioner shall not abscond during trial.

v) 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].

vi) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

09/03/2021

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



AAV

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

- 1 THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR AT KUMBAKONAM.
- 2 THE INSPECTOR OF POLICE
VIGILANCE AND ANTI-CORRUPTION WING,
THANJAVUR, THANJAVUR DISTRICT.
- 3 THE OFFICER INCHARGE,
SUB JAIL,
KUMBAKONAM.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.3638 of 2021
Date :09/03/2021

NR/VR/SAR-II(09.03.2021) 4P:5C