



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 17/12/2021

PRESENT

The Hon'ble Mr.Justice G.ILANGO VAN

Crl.OP(MD)No.14363 of 2021

T.M.Deva Kumar

... Petitioner/Accused No.1

Vs.

The State rep.by
The Inspector of Police,
Vigilance and Anti-Corruption Wing,
Madurai.
(Crime No.7 of 2021)

... Respondent/Complainant

For Petitioner : M/s.A.ROBINSON, Advocate.

For Respondent : M/s.SS.MADHAVAN,
Government Advocate (Crl.Side)

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

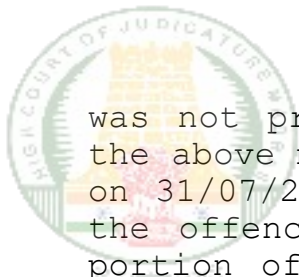
PRAYER :-

For Anticipatory Bail in Crime No.7 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who is arrayed as A1 apprehending arrest at the hands of the respondent police for the offences punishable under sections 167 and 409 IPC, section 13(2) r/w 13(1)(c) of Prevention of Corruption Act, 1988 in Crime No.7 of 2021 on the file of the respondent police, seeks anticipatory bail.

2.The petitioner was working as Chief Medical Officer in Karaikudi Government Headquarters Hospital from 09/03/2011 to 24/10/2016 and during the above said period, Rs.5,78,111/- have been collected by selling blood, X-ray film rolls etc., and that amount



was not properly remitted to the Government account. A portion of the above misappropriated amount viz., Rs.4,76,111/- alone remitted, on 31/07/2013. So according to the prosecution, it is nothing, but the offence of temporary misappropriation. After two years ago, a portion of the collected amount has been remitted. So the balance amount was about Rs.1,00,000/-. Later, on various dates, totally Rs.64,000/- has been remitted. After that Rs.4,987/- was remitted on 12/11/2013. So the balance to be remitted comes around Rs.31,000/-. So according to the prosecution, this petitioner being the Chief Medical Officer is duty bound to properly verify the remitted amount and supervise the collection and remittance also. He also joined together along with the other accused and committed the offence of temporary misappropriation of the above said amount.

3.The learned counsel appearing for the petitioner would submit that even though, he was the Chief Medical Officer, he was not directly responsible for the collection and remittance of the above said amount and only the co-accused have misappropriated the amount and they have also remitted it. According to the petitioner, he is no way connected in the above said temporary misappropriation.

4.But as rightly pointed out by the Government Advocate (Criminal side), the petitioner being the Chief Medical Officer is the controlling officer of the financial transaction of the Government hospital and he cannot simply say that he was not directly responsible for the same.

5.As mentioned above, it is the duty of this petitioner to verify the accounts daily. But however whether this petitioner is directly involved in the above said collection of misappropriation amount or not, is a matter for investigation and trial. So in such circumstances, since all the evidences are based upon the documentary records, the custodial interrogation of the petitioner may not be required. In fact, no such request has been made by the prosecution to the effect.

6.When the matter was taken up for hearing, a specific question was put to the learned counsel appearing for the petitioner to the effect that the petitioner is ready to remit the remaining amount without prejudice his right of defence. According to him, the remittance of the balance amount should not be taken by the prosecution to prove his guilt.

7.As mentioned earlier, the role played by this petitioner is a matter for investigation and trial, who actually was responsible for the above said temporary misappropriation. As mentioned earlier, it is a matter for investigation and trial. But the public money is utilised by all the accused. So without prejudice to the right of the defence, the petitioner must remit the balance amount of Rs.31,009/- immediately to the Government Account within a period of 15 days from the date of receipt of a copy of this order and



remittance receipt must be produced before the concerned Court. After verifying the remittance challan by the concerned court, the petitioner should be permitted to execute the bond along with two sureties before the trial court.

8. In the view of the above, I am inclined to **grant anticipatory bail** to the petitioner with certain conditions.

9. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance before the learned ***Special Court for Vigilance and Anti Corruption Case, Sivagangai***, and 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 Magistrate concerned and on further condition that the petitioner shall appear before the respondent police once in a 15 days at 10.30 am, for interrogation. The petitioner shall comply with the conditions stipulated under Section 438 Cr.P.C scrupulously. The petitioner shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail will stand dismissed.

sd/-
17/12/2021

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/ /2021
Sub-Assistant Registrar (C.S.IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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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 JUDGE,
SPECIAL COURT FOR VIGILANCE
AND ANTI-CORRUPTION CASES,
SIVAGANGAI.



2. THE INSPECTOR OF POLICE,
VIGILANCE AND ANTI-CORRUPTION WING,
MADURAI.

3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.14363 of 2021

Date :17/12/2021

SP/PN/SAR IV/28/12/2021/4P/4C