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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved on : 17.11.2021

Delivered on : 19.11.2021

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.16331 of 2021

V.Vijayakumar

...Petitioner/Accused Rank Not known

Vs

1.The Superintendent of Police,
Central Bureau of Anti Corruption Branch,
No.73, Aathikulam Road,
Vandipathai Road,
Reserved Line Post, Madurai.

2.The Deputy Superintendent of Police,
Central Bureau of Investigation
Anti Corruption Branch,
No.73, Aathikulam Road, Vandipathai Road,
Reserve Line Post,
Madurai.

FIR.No.RC2292021A0002

...Respondents/Complainants

For Petitioner : Mr.B.Kumar, Senior Counsel,
for Mr.V.Ashok Kumar.Advocate

For Respondents : M/s.Victoria Gowri,
Assistant Solicitor General

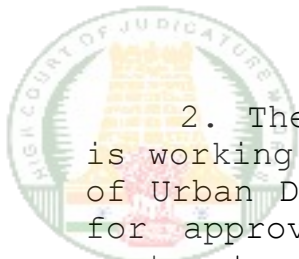
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C.

PRAYER :-

For Anticipatory Bail in FIR No. RC2292021A0002/2021 on the
file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused, who apprehends arrest at the hands of
the respondent Police, for the offence punishable under Section 120B
of IPC r/w 7 of Prevention of Corruption Act 1988, in FIR
No.RC2292021A0002 of 2021, on the file of the respondent Police,
seeks anticipatory bail.



2. The case of the prosecution is that the first accused, who is working as Executive Engineer, Construction - CPWD under Ministry of Urban Develop and Poverty Alleviation, is the person responsible for approving the bills submitted by the contractors for civil contract works. The second accused was awarded with various contract works with CPWD and he in turn entered into a sub contract with the third accused representing M/s.SK Electricals. The third accused, after completing the electrical contract work, submitted a bill to the tune of Rs.40,00,000/- to the first accused and they were processed and approved by the first accused, for which, the first accused, on 07.06.2021, demanded a sum of Rs.50,000/- as illegal gratification for the purpose of clearing the bills of M/s.SK Electricals and another sum of Rs.1,00,000/- for the purpose of refunding the GST. Thereafter, the first accused also informed the third accused/the petitioner through the 2nd accused that he cleared the bills of the third accused on the same day, for which, the third accused informed the first accused that one Narayanan would come and meet the first accused on 09.06.2021. As the first accused is involved in similar acts that he demanded money through the second accused from the petitioner to the tune of Rs.10,000/- for clearing his bills and also from another contractor by name Jude @ Jude Antony to the tune of Rs.20,000/-, this case came to be registered.

3. The learned Senior Counsel appearing for the petitioner would submit that the petitioner has not been arrayed as accused, but it was observed in the FIR that the first accused has induced/demanded the petitioner of Rs.10,000/- to clear his bills. He would further submit that the representative of the first accused had approached the petitioner's staff informing that the first accused was hospitalized due to Covid-19 and as he was in severe financial crisis to meet over his medical expenses, requested to lend Rs.10,000/- for the medical expenses of the first accused, that the petitioner's staff gave Rs.10,000/- to the representative of the first accused for the medical expenses of the first accused on humanitarian ground and that the said factum has been misconceived and wrongly projected in the FIR as if the said amount was given as bribe to settle the bills of the petitioner.

4.The learned Senior Counsel would further submit that the petitioner is not at all an accused and he can only be treated as a witness to the occurrence, that the petitioner can also be treated as an victim in the above case and that the petitioner is ready to appear before the respondent and co-operate with the investigation.

5. The learned Assistant Solicitor General appearing for the respondent would submit that the petitioner has bribed Rs.10,000/- to the accused 1 and 2 and that therefore, he has been implicated in the above case.



6.It is not in dispute that this Court in CrI.O.P(MD)No.15065 of 2021 has granted anticipatory bail for similarly placed accused vide order dated 22.10.2021.

7.The learned Assistant Solicitor General appearing for the respondent police would submit that as per the direction of this Court, the petitioner has fully co-operated for the enquiry. She would further submit that the first accused is the person responsible for approving the bills submitted by the contractors for civil contract works. By using his position, the first accused has demanded amount as illegal gratification for the purpose of clearing the bills and also would submit that the first accused was arrested and thereafter released on bail.

8.Considering the nature of the offence alleged against the petitioner and also the fact that similarly placed accused has already granted anticipatory bail by this Court and upon considering the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner.

9.Accordingly, this criminal original petition is allowed and 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 II Additional District Court for CBI Cases, Madurai, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions 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 Aadhaar card or bank pass book to ensure their identity.

[b]the petitioner shall report before respondent police on every Monday at 10.30 a.m., until further orders.

[c]the petitioner shall not tamper with the 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 229-A IPC.

sd/-
19/11/2021

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/ /2021

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Sub-Assistant Registrar (C.S.)
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 II ADDITIONAL DISTRICT COURT FOR CBI CASES,
MADURAI.

2 THE SUPERINTENDENT OF POLICE
CENTRAL BUREAU OF INVESTIGATION,
ANTI CORRUPTION BRANCH, NO073, AATHIKULAM ROAD,
VANDIPATHAI ROAD, RESERVE LINE POST, MADURAI.

3 THE DEPUTY SUPERINTENDENT OF POLICE,
CENTRAL BUREAU OF INVESTIGATION,
ANTI CORRUPTION BRANCH, NO073,
AATHIKULAM ROAD, VANDIPATHAI ROAD,
RESERVE LINE POST,
MADURAI.

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

+1 CC to M/s.V.ASHOK KUMAR, Advocate (SR-8397[I] dated 23/11/2021)

ORDER
IN
CRL OP(MD) No.16331 of 2021
Date :19/11/2021

PKP/JM/SAR-1/24.11.2021/4P/6C