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Crl.O.P.No.3642 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :03.03.2022

Pronounced on :09.03.2022

Coram:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Crl.O.P.No.3642 of 2022

R.Selvam,
Aged 49 years
S/o K.Ramu

.. Petitioner

/versus/

The Inspector of Police,
Vigilance and Anti Corruption Department,
Coimbatore,
Crime No.3/2022

..Respondent

Criminal Original Petition has been filed under Section 438 of Cr.P.C., praying to grant anticipatory bail to the petitioner in the event of his arrest by the respondent, in connection with Crime No.3/2022 on the file of the respondent herein, pending investigation.

For Petitioner :Mr.S.Vijayakumar

For Respondent :Mr.S.Santhosh,
Government Advocate

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ORDER

The petition for anticipatory bail is filed by the petitioner herein, the Deputy Thasildar, who apprehends arrest for the alleged offence under Section 7(a) and Section 7(b) of Prevention of Corruption Act, 1988 as amended by the Prevention of Corruption (Amendment) Act, 2018 in Crime No.3 of 2022.

2.The case of the prosecution is that on receipt of the complaint from one Chinnaraj, alleging that he made online application on 12/01/2022 for solvency certificate. He submitted necessary documents to the Village Administrative Officer and the Revenue Inspector concern and they recommended to the Thasildar for issuance of certificate. On 24/01/2022, he went to the Thasildar Office and met the Head Quarters Deputy Thasildar. As per his instructions, he met the Thasildar. She in turn told that she has already discussed with the Head Quarters Deputy Thasildar and he will explain the formalities. Accordingly, he again met the Head Quarters Deputy Thasildar and as per his instruction, he remitted fees of Rs.6,000/- through Bank. After remittance of the fees, when he met the Thasildar, she again instructed to meet the Head Quarters Deputy Thasildar. When he met the Head Quarters Deputy



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Thasildar, for uploading the solvency certificate, he demanded Rs.15,000/- for Thasildar and Rs.10,000/- for him. The defacto complainant is not inclined to pay bribe, he met the Head Quarters Deputy Thasildar again on 28/01/2022. On that day, the Head Quarters Deputy Thasildar told that only on payment of bribe money, the solvency certificate will be uploaded or else, he has to approach the Thasildar and get the certificate. Since the defacto complainant was not ready to give bribe, he gave the complaint against the Thasildar and the Head Quarters Deputy Thasildar on 04/02/2002.

3.After preliminary enquiry about the complaint and the complainant and being satisfied that there is *prima facie* truth in the complaint against Smt.Kokilamani (Thasildar) and Mr.Selvam, (Head Quarters Deputy Thasildar), First Information Report was registered and trap was laid after complying, the pre-trap proceedings.

4.At about 14.05 hrs the defacto complainant and the decoy witness went to the Coimbatore, North Thasildar Office. The defacto complainant on demand by the Thasildar gave the marked currency



Rs.25,000/-to the Thasildar. She in turn instructed her staff Mr.Anandraj to tell the Computer Operator, Ms.Meena to upload the solvency certificate. Accordingly, the solvency certificate was uploaded and a copy of it was handed over to the defacto complainant. Thereafter, on receiving the signal from the defacto complainant, the Raiding Team entered into the room of the Thasildar and recovered the marked currency from the table drawer in the presence of witnesses. The phenolphthalein test conducted on the right hand fingers of Smt.Kokilamani proved positive and later she was arrested.

5.Based on the confession statement of this accused and the material information from the defacto complainant, the Head Quarters Deputy Thasildar (petitioner herein) is arrayed as second accused, since he demanded bribe of Rs.10,000/- and has a share in the bribe money of Rs.25,000/- received by the first accused.

6.The learned counsel for the petitioner, submitted that, admittedly no money was given to this petitioner and no money was recovered from him. In fact, on 27/01/2022 he was not even present in the office and he



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was called to Chennai to arrange Republic Day Kottai Amir Award Distribution Ceremony. He left Coimbatore on 24/01/2022 in Nilgiris Express to attend the function. At Chennai, he fell sick due to Covid infection and was advised quarantine. He returned to Coimbatore on 26/01/2022 and was in home quarantine for 7 days as per the advice of the Doctors at ESI, Hospital and Govt. Medical College Hospital. On the date of raid, he was not even present in the scene of crime. After 24/01/2022, he did not attend duty and particularly, he was under home quarantine on 28/01/2022. Therefore, the defacto complainant's allegation that he demanded bribe on 28/01/2022, when he met the Head Quarters Deputy Thasildar is false.

7.In support of his submissions, the learned counsel for the petitioner has enclosed the proceedings of the Government and the District Collector deputing him to accompany for the Kottai Amir Award Distribution Ceremony to Chennai. The lab reports shows that he was affected by COVID-19 virus on 25/01/2022 and advised isolation for 7 days.



8.The respondent in the counter had stated that the defacto complainant met the petitioner twice first on 24/01/2022 and next on 28/01/2022, the first meeting is very significant, since the initial demand of undue advantage was made by this petitioner on that day. On that day he attended the office and the attendance register proves his presence at office. The petitioner has not denied about his meeting with the defacto complainant at his office on 24/01/2002. Further, the successful trap and the confession of the co-accused implicating this petitioner is also relevant. Considering the incriminating material available against the petitioner, the petition is liable to be dismissed.

9.The perusal of the records indicates that the defacto complainant alleges the demand of undue advantage by this petitioner on two dates, while the petitioner denies his very presence in the office on 28/01/2022, when the alleged second demand was made. The petitioner has also produced medical records to show on 28/01/2022 that he was advised to be in isolation for 7 days on being found positive to COVID 19. Further, it is also to be noted that the entire bribe money was received by the first accused and the same was recovered from her on 04/02/2022.



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10. Therefore, this Court is of the view that, considering the facts and circumstances, custodial interrogation of the petitioner is not required in this case. Hence, Anticipatory Bail is granted to the petitioner.

11. Accordingly, the petitioner is ordered to be released on anticipatory bail in the event of arrest or on his appearance, within a period of seven days from the date of receipt of a copy of this order, before the **learned Special Judge, Vigilance and Anti-Corruption, Coimbatore**, on condition that the petitioner shall execute a bond for a sum of Rs.1,00,000/- (Rupees one lakh Only), with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned, failing which the anticipatory bail shall stand cancelled 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 Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) **the petitioner shall report before the**



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Investigation Officer daily at 10.30 a.m., until further orders;

(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]*; and;

(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

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Dr.G.JAYACHANDRAN,J.
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