



CrI.O.P.No.4677 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on : 14.03.2022

Pronounced on : 17.03.2022

Coram::

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Criminal Original Petition No.4677 of 2022

L.Kishore Kumar,
S/o.Loganathan,
No.3/281, Muthalamman Koil Street,
Kottivakkam,
Chennai – 600 041.

... Petitioner/Accused No.2

/versus/

The State represented by,
The Inspector of Police,
Vigilance and Anti-Corruption Wing,
Chennai City-II, Alandur, Chennai,
Crime No.1/AC/2022/C-II

... Respondent/Complainant

Prayer: This Criminal Original Petition is filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in Crime No.1/AC/2022/CC-II on the file
of the respondent police and pass order.

For Petitioner : Mr.R.C.Paul Kanagaraj, for
Mr.C.Krishnamoorthy

For Respondent : Mrs.G.V.Kasthuri,
Additional Public Prosecutor



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ORDER

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The petitioner, who was arrested on 11.02.2022 for the offences punishable under Section 7(b) of the Prevention of Corruption (Amendment Act 2018), in Crime No.1/AC/2022/CC-II, on the file of the respondent police, seeks bail.

2. The petitioner is a Government Surveyor in the Alanthur Taluk. Based on the complaint given by one N.Murugan of Adambakkam, alleging that for change of patta, this petitioner called him over phone and demanded undue advantage of Rs.2,00,000/- for himself and Rs.3,00,000/- for A-1. On 10/02/2022, this petitioner called the defacto complainant and asked him to meet with money. The said conversation regarding demand of bribe money was recorded through the voice recorder App in his Cell phone. Not willing to pay bribe money, he gave the complaint to the respondent. Pursuant to the complaint trap was laid. On 11/02/2022 at 12.30 p.m., in the course of trap proceedings, the defacto complainant went to the spot mentioned by this petitioner and he was followed by the shadow witnesses. In the presence of the shadow witness, this petitioner demanded and received a cover containing Rs.50,000/- marked currency smeared



with phenolphthalein powder. On the cover, the name of A-1 was written. Having caught red handed with tainted currency, the petitioner herein was arrested and arrayed as the second accused. The Tahsildar (Additional In-charge) of Alandur Taluk, who directed the petitioner to contact the defacto complainant and demand Rs.5,00,000/- from him is the first accused.

3. While the first accused is still absconding and his anticipatory bail petition was dismissed by this Court on 10/03/2022, the second accused, who is the petitioner herein, had sought for bail, stating that, the petitioner was arrested on 11/02/2022, he is an innocent person and he never demanded any illegal gratification from the defacto complainant. In fact, there was some title dispute between the defacto complainant and others in respect of the subject property. The Patta stood in the name of the rival party of the defacto complainant and after enquiry, the Patta was transferred in the name of the petitioner on 08/02/2022 itself. Therefore, there is no necessity for a demand of Rs.5,00,000/- as illegal gratification for himself and for A-1 (Saravanan), since the work already discharged. He, without knowing that the cover contains money, he received it. since it bear the name of his Superior Officer A-1. For nearly a month, he is in



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prison and no custodial interrogation was sought by the respondent. Since, substantial part of the investigation is completed, there is no impediment for the respondent if the bail granted.

4. The Learned Additional Public Prosecutor appearing for the respondent has filed counter to the bail petition.

5. According to the respondent, the petitioner was caught red handed when he received the bribe money of Rs.50,000/- from the defacto complainant. The phenolphthalein test conducted turned positive and the tainted currency recovered from the petitioner tallied with the currency number recorded in the pre-trap proceedings. The voice sampler of the petitioner drawn is handed over to the State Forensic department and the result is awaited.

6. The Learned Counsel for the Petitioner in response to Additional Public Prosecutor, submitted that, the substantial part of the investigation is over and the petitioner is ready to cooperate with the investigation and the petitioner may be released on bail.



7. This is a case of trap in which the marked currency of Rs.50,000/- was recovered from this petitioner. Thus, there is *prima facie* evidence for the receipt. In so far as demand is concerned, the prosecution rely upon the alleged conversation between the petitioner and the defacto complainant, recorded on 10/02/2022. The counter filed by the respondent indicates that, the sample voice analysis of the petitioner drawn and sent for comparison report from the State lab and same is awaited.

8. Since, the investigation is almost completed and the custodial interrogation of the petitioner may no longer required, hence bail is granted to the petitioner, subject to the following conditions:-

(a) The petitioner shall execute a bond for a sum of **Rs.50,000/- (Rupees Fifty Thousand only)** with two sureties, each for a like sum to the satisfaction of the **Learned Chief Judicial Magistrate/Special Judge, Chengalpattu.**

(b) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;



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(c) **The Petitioner is directed to appear before the Investigating Officer daily at 10.30 a.m., until further orders.**

(d) The Petitioner shall not tamper with evidence or witness either during investigation or trial;

(e) on breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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 Allowed.

17.03.2022

Index :Yes/No.
Internet :Yes.
Speaking order/Non Speaking order
bsm



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To:-

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1. The Chief Judicial Magistrate/Special Judge, Chengalpattu.
2. The District Jail, Chengalpattu.
3. The Inspector of Police, Vigilance and Anti-Corruption Wing,
Chennai City-II, Alandur, Chennai.
4. The Section Officer, V.R.Section, High Court, Madras.



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Dr.G.JAYACHANDRAN,J.

bsm

Pre-delivery order made in
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17.03.2022