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Crl.O.P.No.5362 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :10.03.2022

Pronounced on :15.03.2022

Coram:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Crl.O.P.No.5362 of 2022

Mr.Babuji @ Babu,M/Aged 43 years(A1)
S/o Mr.Ranganathan .. Petitioner

/versus/

The State rep.by
Inspector of Police,
V & AC/CC-II Alandur,
Chennai.

(Crime No.2/AC/2022) ..Respondent

Criminal Original Petition has been filed under Section 439 of
Cr.P.C., praying to enlarge the petitioner on bail in the Cr.No.2/AC/2022
on the file of the respondent.

For Petitioner :Mr.S.Sathyaraj

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



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ORDER

The petitioner, who was arrested and remanded to the Judicial Custody on 17.02.2022 for the alleged offence punishable under Sections 7 and 12 of Prevention of Corruption (Amendment) Act, 2018 in Crime No.2/AC/2022 on the file of the respondent police, seeks bail.

2.The petitioner herein is working as Village Administrative Officer of Varadharajapuram Village. He is arrayed as first accused in the case registered by the respondent for offences under Sections 7 and 12 of Prevention of Corruption(Amendment) Act, 2018.

3.The case of the prosecution is that, one Mr.Divya Prabu gave a written complaint on 17/02/2022, alleging that for granting regularization for the plot under agreement for sale with his mother by one Suganthi Manorama, he approached the Block Development Office (BDO) at Padapai. He was told that the site inspection report of the Village Administrative Officer (VAO), Varadharajapuram is awaited. Hence, he met the Village Administrative Officer (VAO),



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Varadharajapuram and enquired about the inspection of site. He told him to come on the next day at 2.00 pm. On the next day, the Village Administrative Officer(VAO) and his Assistant Mr.Prabhu inspected the site and said no need to worry and the site inspection report will be ready within a week. On 08/02/2022 at about 2.00 p.m. from the mobile No.91765-39333, the said Prabhu called him and informed that the site inspection report is ready, if he come to the office and meet the Village Administrative Officer (VAO) and complete the formalities, the file will be put up. So, he went to Village Administrative Office on 15/02/2022 at about 3.00 p.m. and met the Village Administrative Officer. At that time, the Village Administrative Officer demanded Rs.20,000/- as illegal gratification to put up the file. After some negotiation, he agreed for Rs.18,000/-. Also, he told him that he need not to pay the money in cash, he can transfer it to mobile number 82486 07022.

4.Since the said Divya Prabu, the proposed buyer, who in need of the site approval for getting loan, but not inclined to give bribe, lodged complaint in writing to the Inspector of V & AC. Based on the compliant, First Information Report for offence under Section 7 of the



Prevention of Corruption Act (amended in) 2018 was registered. Trap was laid on the same day. The Village Administrative Officer was seen demanding illegal gratification and on confirming the money was transferred via G-Pay to the account, he asked that the site inspection report was forwarded. Further, the investigation revealed that the said bank account belongs to one Elizabeth, W/o Sureshkumar. On arrest of Suresh kumar(A-2), he confessed that it is pre-arranged modus operandi to transfer the bribe money of A-1 by G-pay to his wife's account to avoid receipt of cash directly.

5.The learned counsel for the petitioner submitted that this petitioner did not demand any bribe from the defacto complainant for uploading the site inspection report. He has no conduit with A-2. The money alleged to have transferred into A-2 wife's account is nothing to do with the petitioner discharge of his public duty or preparation of site inspection report.

6.Per contra, the learned Additional Public Prosecutor submitted that the petitioner was caught red handed. To avoid getting caught, while



receiving money directly, the MoP of the accused person is to get the bribe money through e-payment to some third party, known to the accused persons. Only on ensuring the transfer of money as *quid pro quo*, the lawful work done in unlawful means obtaining undue advantage. The further investigation about such similar illegal transaction is underway and if the petitioner is released on bail, he may tamper the evidence.

7.Taking note of the fact that the indigenous method of demand and receipt of bribe to discharge the duty now requires further probe with other applicants for whom this petitioner has issued reports in recent past. Undisclosed incidents of demand and receipt of undue advantage from the beneficiaries requires time to probe.

8.In view of the amendment to the Prevention of Corruption Act, the bribe giver without justification fails to report the demand or payment of undue advantage is also liable to be prosecuted. Therefore, the possibility of voluntary disclosure by beneficiaries may not be possible. Unless the respondent make further probe, those incidences will



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not come to light. If the petitioner is released on bail, at this point of time, the investigation will get disturbed. Hence, this Criminal Original Petition is dismissed.

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Dr.G.JAYACHANDRAN,J.
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