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CrI.O.P.No.14432 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 01.07.2022

PRONOUNCED ON: 12 .07.2022

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.14432 of 2022

S.P.Rajendran

.. Petitioner

Versus

The State of Tamil Nadu

Rep. By The Inspector of Police,
CBCID, Coimbatore.

(Crime No.02 of 2021)

.. Respondent

Prayer:Criminal Original Petition filed under Section 438 of Cr.P.C to
enlarge the petitioner on bail in the event of his arrest in connection with
Crime No.2/2021 pending investigation on the of file of the respondent
police.

For Petitioner : Mr.A.Ramesh senior counsel
for T.N.Rajagopalan

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor.

For Intervener : Mr.N.Manokaran
for V.P.K. Gowtham

ORDER

This petition has been filed to enlarge the petitioner on
anticipatory bail in the event of his arrest in connection with Crime



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No.2/2021 pending investigation on the of file of the respondent police.

2. The case of the prosecution is that the petitioner is a practising advocate, who is arrayed as second accused and one Dr.V.Ramachandran, who is the client of the petitioner herein is arrayed as first accused. The above said Ramachandran is the owner of the property bearing Door No.932 A, Sathy Road, Coimbatore – 641 012 and he is running a hospital under the name and style of “Lakshmi Narayana Clinic” with its trade mark as "Ellen Hospital". While being so, Dr.Umashankar, approached him during the year 2017 and requested to take over his hospital and run the hospital under the name and style of M/s. Chennai Hospital Private Limited. Thereafter, the first accused has entered into lease agreement with the said Dr.Umashankar on 05.07.2017 registered vide document No.3673 of 2017, for a period of ten years and rent per year is fixed as Rs.3,30,00,000/- with periodical increase.

3. Accordingly the said Dr. Umashankar had paid a sum of Rs.1,00,00,000/- as a security deposit. Thereafter, he paid a sum of Rs.6,75,000/- on four occasions totalling to the tune of Rs.27,00,000/-



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towards rent and he was irregular in payment of monthly rents.

Therefore, the first accused called upon him to pay arrears of rent and requested to vacate the premises. Further, there was no response as such he lodged a complaint. Thereafter, he issued cheque to the first accused for a sum of Rs.65,85,300/- and the same was returned as "payment stopped by the drawer". Further, he committed to sell the hospital in favour of third party as such the above said Ramachandran lodged a complaint before CCB, Coimbatore and an FIR is also registered under Sections 406, 420, 341, 506(1) and 109 of IPC in crime No.36 of 2020. After registration of the above said FIR, both the parties entered into a compromise and the first accused issued four cheques for a sum of Rs.66,68,000/- and those cheques were honoured on presentation. Further, he gave two cheques for a sum of Rs.17,82,000/-, all the above cheques were returned dishonoured for the reason "Funds Insufficient".

4. Thereafter, the first accused agreed to vacate and hand over the possession of the hospital. Accordingly, he handed over the possession on 24.11.2020 and also promised to settle the arrears of rent.



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While being so, on 04.12.2020 the petitioner along with henchmen entered into the hospital with deadly weapons threatened them to vacate the premises and hand over possession to them, following which, on 05.12.2021 Dr. Ramachandran lodged a complaint before the Rathinapuri Police Station and the same has been registered in Crime No.1376 of 2020 under Sections 147, 148, 452 and 506(ii) of IPC. Subsequently, the said Dr. Umashankar and others arrested and released on bail in connection with Crime No.36 of 2020. However, thereafter, he refused to cancel the lease agreement. Then, Dr. Ramachandran filed a civil suit in O.S.No.1232 of 2020 on the file of the District Munsif Court, Coimbatore, seeking declaration of lease agreement as non-est and no value before the eye of law. While the said suit was pending, one of the directors of M/s. Chennai Hospital has filed a suit in O.S.No.490 of 2021 on the file of the ADM, Coimbatore, seeking for permanent injunction restraining Dr. Ramachandran from inducting any third parties in the hospital. After completion of investigation in Crime No.36 of 2020, the police filed a final report and same has been taken on cognizance in C.C.No.509 of 2021, on the file of the Judicial Magistrate



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No.VII, Coimbatore. In the meanwhile, the Director General of Police, Tamil Nadu, transferred the entire investigation to CBCID, Coimbatore and ordered for further investigation. In pursuant to the transfer of investigation, a petition was filed under Section 173(8) of Cr.P.C in Cr.MP.No.14192 of 2021 before the Judicial Magistrate No.VII, Coimbatore. Subsequent to the transfer of investigation, the respondent re-registered an FIR in Crime No.1 of 2021 in which Dr.Ramachandran arrayed as accused.

5. Further, the learned Magistrate by an order dated 08.07.2021 dismissed the application for the reason that no case has been made out for further investigation. Aggrieved by the same, the first accused filed a writ petition before this Court in W.P.No.15601 of 2021, in which, this Court by an order dated 29.07.2021, ordered that no further investigation can be conducted in Crime No.1 of 2021, which is nothing but a replica of Crime No. 36 of 2020, which is an administrative act. In view of that the respondent CBCID cannot conduct any investigation. The said writ petition is still pending before this Court for filing counter. While being



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so, the said Dr.Umashankar, on 23.01.2021, died in road accident and a separate case has been registered against the driver of the vehicle, which is pending for investigation. Again, the Director General of Police, Tamil Nadu transferred the investigation in Crime No. 1376 of 2020 to the respondent and on receipt of the entire bundles, the respondent re-registered the FIR in Crime No.2 of 2021, wherein, Dr.Ramachandran is arrayed as first accused and the petitioner is arrayed as the second accused. Therefore, the petitioner apprehends arrest at the hands of the respondent police.

6. Heard both sides and carefully perused the materials placed on record.

7. The learned senior counsel appearing for the petitioner submitted that though the Director General of Police ordered transfer of investigation, the permission sought for by the respondent before the learned Judicial Magistrate was rejected in Cr.MP.No.1492 of 2021 by an order dated 08.07.2021. However, it was challenged by the defacto complainant in W.P.No.15601 of 2021, whereas, this Court passed an



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interim order vide order dated 29.07.2021 citing that the respondent CBCID cannot conduct any investigation in Crime No.1 of 2021 as the same is a replica of Crime No. 36 of 2020, which is an administrative act. Further, the respondent filed a counter dated 29.06.2022, wherein, they had falsely stated that no interim order was passed by this Court in W.P.No.15601 of 2021. That apart, the petitioner is a practising advocate for the past 27 years and he had never involved in any of the crime as alleged by the respondent. It is to be noted that the petitioner acts only as an advocate to the first accused and he has nothing to do with the alleged offences. That apart, the complaint lodged by the first accused was registered in Crime No.1376 of 2020 and now it was re-registered into Crime No.2 of 2021 which manifests that this incident had taken place during the year 2020. Hence, it does not require custodial interrogation of the petitioner in this case. Though, there was an allegation that petitioner was engaged as an henchmen to evict the said Dr. Umashankar from the hospital premises, harassed the in-patients, gave sex torture to the doctors, no one had lodged such a complaint against the petitioner so-far. Therefore, knowingly, the Director General of Police, transferred



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the investigation, since, already on the complaint lodged by the first accused, the investigation had completed and the final report has been taken on file in C.C.No.509 of 2021 on the file of the Judicial Magistrate No.VII, Coimbatore.

8. On perusal of the counter filed by the respondent reveals that, on 04.12.2020, when Dr. Umashankar was in possession of the hospital, the accused persons trespassed into the hospital, forcibly evicted the inmates of the hospital and also damaged the CCTV cameras, removed the hard disk as well as hospital board and erect as "Ellen Hospital". The accused persons also threatened all the doctors, staffs and put them under fear of death. The patients who were affected by the Covid – 19 were also threatened by the accused persons and in fact, one of the accused called the Doctor for sex. The said Doctor lodged a complaint before the Rathinapuri Police Station, Coimbatore and the same was produced before this Court. There were eye witnesses and the entire occurrence has been photographed and video graphed through the cell phone. So far, the respondent examined 61 witnesses and in which



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30 found to be eye witnesses. Therefore, the first accused and other henchmen arranged by the petitioner/accused forcibly extorted the hospital from the lawful possession of hospital of Dr.Umashankar. By suppressing all these facts the first accused lodged a false complaint with the help of the petitioner herein before the Inspector of Police, Rathinapuri Police Station, and the same was registered in Crime No.1376 of 2020 under Sections 120 (B),147,148,452,427, 294(b), 506(ii),386,354(A),201 r/w 114 of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act and the same was re-registered in Crime No. 2 of 2021. Thereafter, on 13.06.2022, based on the complaint registered in Crime No.2 of 2021, the respondent police arrested A1 to A5. They were interrogated by the respondent police and their confession statements were also recorded, it reveals that nearly a sum of Rs.30,00,000/- was paid to the petitioner herein for arrangement of henchmen to evict Dr.Umashankar, staffs and patients etc., from the M/s. Chennai Hospital Private Limited. Therefore, he vehemently opposed for grant of anticipatory bail to the petitioner.



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9. Considering the above facts, it reveals that the petitioner had criminal conspiracy with other accused persons and planned to take away the possession of hospital from the Dr.Umashankar by illegal manner. The confession statements of the accused persons revealed that the payment made in favour of the petitioner herein for arrangement of henchmen. Therefore, the petitioner had committed very serious offence and completely damaged the entire hospital and evicted the Dr. Umashankar. Unfortunately, the said Dr.Uma Shankar died in the road accident. In fact, the Public Prosecutor submitted that the said accident was also taken place on suspicious manner and his son filed a direction petition before this Court for transfer of investigation, in which, this Court directed to maintain status quo with regard to filing of final report and ordered to find out what is the reason behind the accident. The defact - complainant also suspects the involvement of this petitioner and other accused persons in this accident. Therefore, the custodial interrogation of the petitioner is very much required in this case, this Court is not inclined to grant anticipatory bail to the petitioner.



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10. Accordingly, this Criminal Original Petition is dismissed.

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To

1.The Inspector of Police,
CBCID, Coimbatore.

2.The Public Prosecutor
Madras High Court, Chennai



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G.K.ILANTHIRAIYAN, J.
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