IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Criminal Jurisdiction )

Thursday, the Twenty Fourth day of February Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice R. PONGIAPPAN

CRIMINAL ORIGINAL PETITION No.25974 of 2021

SHAFIQ AHAMED [ PETITIONER ]

Vs

STATE REP BY [ RESPONDENT ]
THE INSPECTOR OF POLICE, CBI,
ACB, CHENNAI.

For Petitioner : M/S.S.PALANI Advocate

For Respondent : M/S.K.SRINIVASAN, Special Public Prosecutor FOR CBI Cases

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence under Sections 120(B) r/w 419, 420, 409, 467, 468, 471 of IPC and Sections 13(2) r/w 13(1)(b) of Prevention of Corruption Act, 1988 (as amended in 2018) in Crime No.RC.0322020A0006 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant lodged a complaint against the petitioner and others alleging that they have created a bogus documents and swindled a sum of Rs.45,00,00,000/- (Rupees Forty Five Crores only) from the account of Chennai Port Trust. Hence, the respondent police registered a case against the petitioner and others.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. In otherwise, he did not commit any offence as alleged by the prosecution. He would further submit that the name of the petitioner is not found anywhere either in the FIR or in the complaint preferred by the defacto complainant, but with a sole intention to harass the petitioner, the respondent has attempted to arrest him with a view to implicate this petitioner and arrayed him as an accused. The materials seized in the petitioner's residence also do not disclose any valid documentary evidence to try this petitioner to the alleged occurrence. Only the team headed by one Ganesh Natarajan committed the offence of fraud, forgery, impersonation and fabrication of false documents. Now, the respondent police is harassing the petitioner to give confession statement about the alleged occurrence. The petitioner hails from a respectable family and there is no antecedents in the name of the petitioner and he also undertakes to co-operate for the enquiry, during the investigation of the case. Accordingly, the learned counsel pleaded for granting anticipatory bail to the petitioner.

4. The learned Special Public Prosecutor (CBI Cases) appearing for the respondent police by filing counter raised objection stating that the petitioner is actively involved in the alleged occurrence. He would further submit that in the alleged occurrence, the petitioner and other accused are all made conspiracy and as a result of which, the Chennai Port Trust sustained huge loss to the tune of Rs.100 Crores. As of now, only Rs.55 Crores were recovered and the remaining Rs.45 Crores have to be recovered from different accused, who are all involved in the alleged occurrence like the petitioner. Therefore, he vehemently opposed this petition stating that if this petitioner is granted anticipatory bail, he would not appear for the interrogation and as a result, it would create a hurdle for the respondent to recover the remaining misappropriated amount.

5. Considered the submissions made by the learned counsel on either side and perused the materials available on record.

6. Now, on going through the background of the case, on a written complaint of Shri.M.Arumugam, Deputy General Manager / Zonal Manager, Indian Bank, Zonal Office, Chennai North, a case in RC No.0322020A0006, was registered as against (1) Shri.Ganesh Natarajan, Alwarpet, Chennai, (2) Shri.V.Manimozhi, Virugambakkam, Chennai, (3) Shri.A.Sermathiraja, Branch Manager, Indian Bank, Koyambedu Branch, Chennai and other unknown Public Servants and Private persons for the offences punishable u/s.120-B, 419, 420, 409, 467, 468, 471 of IPC and u/s 13(2) r/w 13(1)(a) of Prevention of Corruption Act, 1988 (as amended in 2018) for committing fraud, forgery and cheating in the Term Deposit Accounts (Fixed Deposits) standing in the name of M/s.Chennai Port Trust with Koyambedu Branch of Indian Bank, Chennai

to the tune of Rs.100,57,50,000/- and also for committing other criminal offences such as criminal conspiracy, impersonation, fabrication of false documents, submission of forged documents, criminal misappropriation, Criminal Breach of Trust, fraudulent transaction etc., and thereby caused wrongful loss of public money approximately to the extent of Rs.45,40,65,000/- and corresponding wrongful gain to themselves by transferring/withdrawing the said amount to various accounts.

7. In the investigation it was found that one Shri.V.Sudalaimuthu (A1) had organised this crime and thus, he committed the fraudulent withdrawal of Chennai Port Trust fund to the extent of Rs.45.40 Crores approximately with the collusion of the bank official Shri.A.Sermathi Raja (A3), the then Branch Manager of Indian Bank, Koyambedu Branch as well the Chennai Port Trust official Shri.Raghu Bernard, the Assistant Superintendent through the intermediaries/accused persons/suspected persons namely Shri.V.Manimozhi(A2), Shri.Arun(A6), Shri.Selvakumar (A5), Shri.Easakki (Arraigned as accused), Shri.Ganesh @ Ganesh Natarajan (A4) and Shri.Suresh Kumar. According to the prosecution, the investigation and the evidences collected would go to show that the petitioner herein viz., A.Shaffiq Ahmed, is also involved in the conspiracy along with two other foreign nationals and ultimately, created fake current accounts.

8. Though already two preliminary final reports have been filed, according to the learned Special Public Prosecutor, now further investigation has been continued. In otherwise, it is not in dispute a portion of the misappropriated amount not yet recovered. As far as this petitioner is concerned, after the receipt of notice under Section 41A of Cr.P.C., he refused to attend the enquiry and in the alternative, he has filed this present petition.

9. It is well aware, without custodial interrogation, no amount of evidence could be collected. Therefore, in the said circumstances, if this petitioner is released on anticipatory bail, it would cause prejudice to the investigation conducted by the respondent police and also it would create a falling in recovering the remaining misappropriated amount. Accordingly, this Court is not inclined to grant anticipatory bail to this petitioner and this petition in Crl.O.P.No.25974 of 2021, is dismissed.

-sd/-
24/02/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE INSPECTOR OF POLICE,
CBI, ACB, CHENNAI.

2 THE SPECIAL PUBLIC PROSECUTOR
FOR CBI CASES,
HIGH COURT, MADRAS.

CC to M/S.S.PALANI Advocate on payment of necessary charges

CRL OP.25974/2021

Date :24/02/2022

RW 01/03/2022