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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

RESERVED ON : 14/02/2022

PRONOUNCED ON: 18/02/2022

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.2783 of 2022

1. Sivaneswari,

2. Jaya,

3. Pandi,

4. Jeyamani,

5. Latha,

6. Selvakumar,

7. Vasanthi,

8. Rohini,

9. Pappammal, ... Petitioners/Accused Rank Not known

Vs

The State Rep. by,
The Inspector of Police,
CBCID South, Theni District.
(Crime No.03/2022). ... Respondent/Complainant

For Petitioner : Mr.Ajmal Khan, Senior Counsel
for M/sAjmal Associates,

For Respondent : Mr.Veerakathiravan
Additional Advocate General
assisted by
Mr.M.Muthumanikkam,
Government Advocate (Crl.Side)

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

PRAYER :- For Anticipatory Bail in Crime No. 3 of 2022 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioners/accused, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 409, 465, 466, 477A, 468, 471, 472 and 109 I.P.C., Sections 13(2), 13(1)(C) and 13(i)(d)(i) of Prevention of Corruption Act, 1988, in Cr.No.27 of 2021, seek anticipatory bail.

2. The case of the prosecution is that without proper application and procedures, the Government lands have been transferred in the name of the individuals, mostly to the relatives of the Government officials through online and swindled the Government lands. Hence, the present complaint.

3. The learned Additional Advocate General appearing for the State would submit that the Government Officials had swindled Government lands worth of Rupees Seven Hundred Crores and it will be the biggest scam in the State of Tamil Nadu, that the Government officials, without proper application and procedures had transferred the Government lands in the name of individuals, mostly to the relatives of the Government officials through online and subsequently they have executed documents in favour of others, in pursuance of the said assignment of lands.

4. The learned Senior Counsel appearing for the petitioners would submit that one Annaprakash is the father of the first petitioner, brother of the second petitioner and the son of the ninth petitioner and relative of the other petitioners. The learned Senior Counsel would further submit that the said Annaprakash had fully co-operated for the investigation and he was called for enquiry thrice and thereafter he was arrested by the respondent police and that he is still in judicial custody. He would further submit that the respondent police have issued summons under Sections 160 and 91 Cr.P.C., to the petitioners who are the relatives of the said Annaprakash to appear for enquiry and the petitioners are apprehending that the respondent may arrest them, if they appear in pursuance of the summons issued to them.

5. The learned Additional Advocate General appearing for the State would submit that the said Annaprakash is the main accused and he had only arranged to transfer the Government lands in favour of his relatives, the petitioners herein and that thereafter, he had taken a sale deed from them.

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6. The learned Senior Counsel for the petitioners would submit that the concerned Tahsildar has passed an order cancelling the pattas issued and the said Annaprakash and ten others have filed a writ petition in W.P.(MD)No.18348 of 2021 and this Court, vide order dated 08.10.2021, has quashed the impugned order passed by the Tahsildar and also directed the Tahsilar to reconsider the same after giving reasonable opportunity to the petitioners therein.

7. The learned Additional Advocate General appearing for the State would submit that the Revenue Authorities along with the District Collector have immediately filed review petition before this Court to review the order dated 08.10.2021 passed in W.P.(MD) 18348 of 2021 and this Court granted an order of interim injunction restraining the writ petitioners from dealing with, encumbering, alienating or otherwise disposing of the relevant properties until the review application is heard and decided. In the said order, this Court has also observed that there is no embargo for the institution or continuation of proceedings initiated by the State in respect of the alleged irregularities and illegalities pertaining to the relevant properties.

8. The learned Senior Counsel appearing for the petitioners would submit that this Court, while considering the anticipatory bail application of an accused in a connected cse, has passed an order directing the petitioner therein to appear before the CBCID with all available documents within 10 days and the CBCID, after perusing the records, shall get permission from the concerned Judicial Magistrate Court and arrest the petitioner if necessary for custodial interrogation.

9. Another learned Judge of this Court, while considering another anticipatory bail application in Crl.O.P.(MD)Nos.1829 and 1990 of 2022, has specifically observed that the custodial interrogation of the petitioner was very much necessary to unearth the truth and dismissed the petition.

10. As rightly contended by the learned Senior Counsel for the petitioners, the above two anticipatory bail applications have been filed by the Government officials, who had cleared the files and who are shown as the main accused and that therefore, dismissal of those petitions cannot be taken into account, while considering the petitions of the petitioners herein.

11. No doubt, the main accused - the said Annaprakash with whom the petitioners are connected has already been arrested and is in judicial custody. Even according to the prosecution, he is one of the main accused and he had only arranged the transactions.

12. It is pertinent to mention that even according to the prosecution, the petitioners are not made as accused as of now. Admittedly, the respondent has issued summons under Sections 160 and 91 Cr.P.C., to the petitioners to appear for enquiry.

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13. Considering the above facts and circumstances and also the fact that the main accused Annaprakash is in judicial custody and more importantly since the petitioners are not made as accused as of now and the respondent has issued summons to the petitioners, this Court is of the view that the petitioners are to be directed to appear before the respondent police for enquiry in pursuance of the summons issued to them with all available records and after enquiry, the petitioners may be arrested, if necessary, after getting necessary permission from the concerned Judicial Magistrate Court, for custodial interrogation. The respondent police is further directed to take into account the age and health of the 9th petitioner at the enquiry.

14. The petitioners are hereby directed to appear before the respondent police with all available records within a period of ten days from the date of receipt of a copy of this order and the respondent police, after considering the records, shall get permission from the concerned Judicial Magistrate and arrest them, if necessary, for custodial interrogation. In case, if the petitioners fail to appear before the respondent police in pursuance of the directions of this Court, the respondent police is at liberty to proceed against the petitioners in accordance with law.

15. With the above directions, the Criminal Original Petition is disposed of.

sd/-
18/02/2022

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1 THE INSPECTOR OF POLICE
CBCID SOUTH, THENI DISTRICT.

2 THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1CC toM/s.AJMAL ASSOCIATES, Advocate (SR-1318[I] dated 21/02/2022)

ORDER
IN
CRL OP(MD) No.2783 of 2022
Date :18/02/2022

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