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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved on : 15.03.2022

Delivered on : 21.03.2022

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). Nos.3912 & 3926 of 2022

Pitchaimani

... Petitioner/1st Accused
(in both petitions)

vs.

1.State represented by
The Deputy Superintendent of Police,
Madurai Range,
Vigilance and Anti Corruption,
Theni.

... 1st Respondent/Investigation Officer
(in both petitions)

2.State represented by
The Inspector of Police,
C.B.C.I.D.,
Theni.
(Crime No.1 & 3 of 2022)

... Respondent/Complainant
(in both petitions)

(in both petitions)

For Petitioner : Mr.T.Lenin Kumar,
Advocate.

For Respondent : Mr.Veera Kathiravan,
Additional Advocate General,
Assisted by Mr.M.Muthumanikkam,
Government Advocate (Crl. Side).

PETITIONS FOR BAIL Under Section 439 of Cr.P.C.

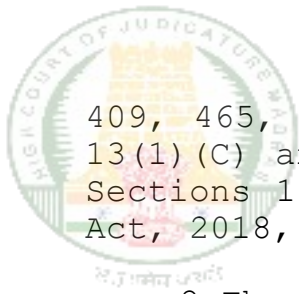
COMMON PRAYER :-

For Bail in Crime Nos.3 and 1 of 2022 on the file of the second respondent Police, respectively.

COMMON ORDER : The Court made the following order :-

The petitioner/A.1, who was arrested and remanded to judicial custody on 02.02.2022 for the offences punishable under Sections

<https://hcservices.ecourts.gov.in/hcservices/>



409, 465, 466, 477A, 468, 471, 472 and 109 IPC, Sections 13(2) r/w 13(1)(C) and 13(1)(d)(i) of Prevention of Corruption Act, 1988, and Sections 13(2) r/w 13(1)(a) of Prevention of Corruption (Amendment) Act, 2018, in Crime Nos.3 and 1 of 2022, respectively, seeks bail.

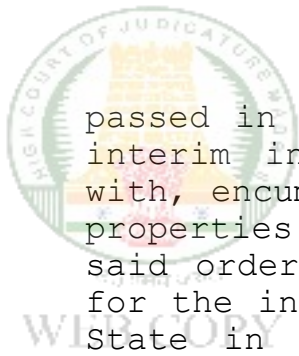
2.The case of the prosecution is that on 23.12.2021, Sub Collector of Periyakulam, Theni District, lodged a complaint before the Superintendent of Police, Theni District, stating that the lands in Thamaraikulam Village and Vadaveeranaickenpatti Village of Periyakulam Taluk, Theni District, were classified as Government Poramboke Tharisu land, that all the accused, without proper applications and procedures, have transferred the said lands in favour of the individuals mostly the relatives of the Government officials through online and swindled the Government lands. Hence, the complaint.

3.The case of the petitioner is that he was appointed as Firka Surveyor in 2013, that he was transferred to Periyakulam Firka on 01.07.2016, that he has been rendering his service to the department to the utmost satisfaction of the superiors, that the State Government forwarded a file in the year 2019 to the petitioner to survey and measure the lands in the said villages and send a report to the Government, that the petitioner had surveyed and measured the lands and sent a report to the Government, that he is innocent and that he has been falsely implicated in the above cases.

4.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.

5.The learned counsel for the petitioner would submit that the petitioner is only a surveyor, that he had no authority to transfer patta for any individual and that he has no connection whatever with the alleged incident.

6.It is not in dispute that the concerned Tahsildar has then passed an order of cancelling the pattas issued and thereafter, one 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 Tahsildar to reconsider the same after giving reasonable opportunity to the petitioners therein. The learned Additional Advocate General would further submit that the Revenue Authorities along with the District Collector have immediately filed review



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.

7.It is also not in dispute that originally the above two cases were registered by the District Crime Branch, Theni, in Crime Nos.18 and 16 2021 and subsequently the cases were transferred to the CBCID, Theni, and FIR came to be registered in Crime Nos.3 and 1 of 2022 on their file.

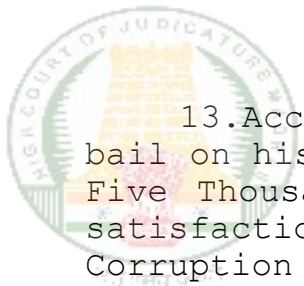
8.The petitioner has filed two petitions in CrI.O.P.(MD) Nos.21074 and 21076 of 2021 seeking anticipatory bail, when the cases were pending on the file of the District Crime Branch, Theni, and the learned Judge has passed an order dated 29.12.2021 directing the petitioner to appear before the CBCID, Theni, with all available documents within 10 days from the date of receipt of a copy of that order and also directed the CBCID, Theni, after perusing the records, shall get permission from the concerned Judicial Magistrate and arrest the petitioner, if necessary, for custodial interrogation.

9.The learned counsel for the petitioner would further submit that in pursuance of the said directions of this Court, the petitioner has appeared before the CBCID, Theni, and after enquiry, they have arrested the petitioner on 02.02.2022 and he was remanded to judicial custody.

10.The learned counsel for the petitioner would further submit that the respondent police had applied and got orders for police custody and that they have examined the petitioner and had taken a statement from him during the police custody.

11.The learned Additional Advocate General would further submit that though this Court has directed some other accused to appear before the CBCID, Theni, for enquiry, they have not chosen to appear and some other Government officials are yet to be secured.

12.Considering the above facts and also the facts that the petitioner is in judicial custody from 02.02.2022, that the respondent police has already examined the petitioner after taking him into the police custody and that the petitioner is not having any bad antecedents, this Court is inclined to grant bail to the petitioner subject to the following conditions:



13. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Special Judge for Prevention and Anti Corruption Act Cases (Chief Judicial Magistrate), Theni.

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(i) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/Special court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

(ii) the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders;

(iii) the petitioner shall not tamper with evidence or witness;

(iv) the petitioner shall not abscond during trial;

(v) On breach of any of the aforesaid conditions, the learned Magistrate/Special Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Special Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

(vi) If the accused / petitioner thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-

21/03/2022

/ TRUE COPY /

22/03/2022

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

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 Special Judge
for Prevention and Anti Corruption Act Cases
(Chief Judicial Magistrate),
Theni.



2.The Deputy Superintendent of Police,
Madurai Range,
Vigilance and Anti Corruption,
Theni. .

3.The Inspector of Police,
C.B.C.I.D.,
Theni.

4.The Officer Incharge,
District Jail,
Theni.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+2 CC to M/s.T.LENIN KUMAR, Advocate (SR-2282[I] & SR-2283[I] dated
22/03/2022)

ORDER IN
CRL OP(MD). Nos.3912 & 3926 of 2022
Date :21/03/2022

RS/PN/SAR.3(22.03.2022) 5P-8C