



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

RESERVED ON : 20/04/2022
PRONOUNCED ON: 27/04/2022

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PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.7030 of 2022

Anna Prakash

... Petitioner/Accused No.9

Vs

The State Rep. By,

1. The Inspector of Police,
CBCID South Police Station,
Theni District.
(Crime No. 3 of 2022).

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

... Respondents/Complainants

For Petitioner : Mr.M.Sricharan Rangarajan, Senior Counsel
for Mr.K.Rajeswaran, Advocate

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

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

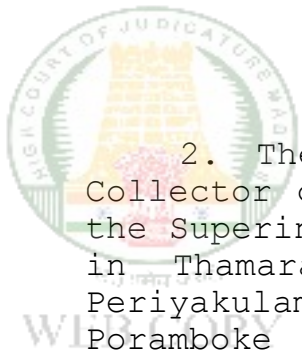
PRAYER :-

For Bail in Crime No. 3 of 2022 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/Accused No.9 who was arrested and remanded to judicial custody on 02.02.2022, for the offences punishable under Sections 409, 465, 466, 477A, 468, 471, 472 and 109 I.P.C., Sections 13(2), r/w 13(1)(c), 13(1)(d)(i) and 13(1)(a) of Prevention of Corruption Act, 1988, in Crime No.3 of 2022, on the file of the respondent police, seeks bail.

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



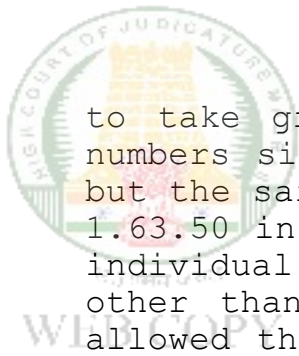
2. The case of the prosecution is that on 23.12.2021, Sub Collector of Periyakulam, Theni District, lodged a complaint before the Superintendent of Police, Theni District, stating that the lands in Thamaraikulam Village and Vadaveeranaickenpatti Village of Periyakulam Taluk, Theni District, were classified as Government Poramboke Tharisu land and 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 has been in possession and enjoyment of the above said land since last 20 years and adjacent to the said lands, the lands belonging to his parents are also situated and they are poramboke lands, that the Government has acquired some lands belonging to the petitioner and his family members in 1997 in connection with construction of the Collector office extension, that since the Government has not paid any compensation for the said acquisition, the petitioner made a request to the authorities to allot the alternative lands and also suggested large extent of poramboke land was available and some portion of the said lands can be allotted to him and his family members and based on such request, the Government allotted the lands and also allotted patta number, that the patta has not been reflected in the other revenue records, the petitioner and others gave representations to the revenue authorities for making entries in their names in the respective Adangal and A register and after so many efforts, the revenue authorities made entries during the year 2018-2019 and that the question of commission of any offence by the petitioner does not arise.

4. The learned Counsel for the petitioner would submit that the petitioner is no way connected with the issuance of any patta as alleged by the prosecution, that the petitioner was previously Union Secretary of opposite party and after change of Government, in order to wreck vengeance, the above false case has been foisted against him.

5. 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 the relatives of the Government officials through online and swindled the Government lands. The Government Officials allowed the petitioner, a licence holder, to take gravels illicitly in the places other than the permitted places and also allowed to take gravels from poramboke lands and thereby caused loss to the tune of Rupees Three Crores to the Government. Hence, the above complaints.

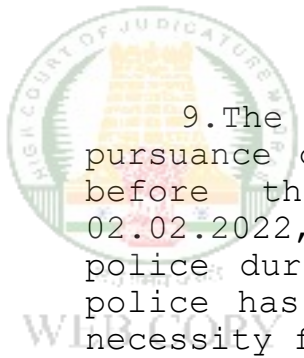
6. The learned Additional Advocate General appearing for the petitioner would submit that the petitioner was holding licence



to take gravel over an extent of 1.41.50 hectares in two survey numbers situated at Vadaveeraaickapatti village, Periyakulam Taluk, but the said individual was allowed to take gravel over an extent of 1.63.50 in S.F.No.2302/2 located in the same village, that the said individual was allowed to take gravel illicitly from the places other than the permitted places and the Government Officials had allowed the said individual to take gravel more than the permitted limits and also to take gravels from poromboke land which are located adjacent to the permitted site and that he had taken approximately 70,000 of lorry load gravel illicitly and thereby caused loss to the Government to the tune of Rupees Three Crores.

7.It is not in dispute that the concerned Tahsildar has then passed an order of cancelling the pattas issued and thereafter the said Annaprakash - the petitioner herein, 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. The learned Additional Advocate General would further 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. It is also not in dispute that son, brother, mother and other close relatives of the petitioner have filed a petition in Crl.O.P.(MD)No.2783 of 2022 seeking anticipatory bail and this Court has directed the petitioners therein 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 that order and the respondent police, after considering the records, was directed to get permission from the concerned Judicial Magistrate and arrest them, if necessary for custodial interrogation and that in case, if the petitioners therein fail to appear before the respondent police, in pursuance of the directions of this Court, the respondent police was at liberty to proceed against them in accordance with law. The learned Additional Advocate General would submit that they have not appeared before the respondent Police as directed by this Court, that they have approached the Hon'ble Supreme Court for Anticipatory bail and that the same was dismissed by the Hon'ble Supreme Court and that even thereafter, they have not chosen to appear before the respondent Police.



9.The learned Counsel for the petitioner would submit that in pursuance of the directions of this Court, the petitioner appeared before the respondent police on 11.01.2022, 13.01.2022 and 02.02.2022, that when he appeared on 02.02.2022, the respondent police during the enquiry itself arrested him and that since the police has already enquired him sufficiently, there is no need or necessity for further interrogation.

10.The learned Additional Advocate General would submit that though the petitioner had appeared for enquiry, he has not co-operated for the investigation and that is why, he was arrested. The Investigation Officer has filed a counter affidavit stating that the petitioner has deliberately refused to co-operate the investigation and with intention of concealing the facts known only to him and intend to escape from the criminal acts, he had committed and that if the petitioner is released on bail, he will abscond from the clutches of law and he will influence the arrest of other accused.

11.No doubt, the petitioner's earlier application in Crl.O.P. (MD)No.5017 of 2022 was dismissed by this Court, vide order dated 01.04.2022.

12.The learned counsel for the petitioner would submit that there existed two change in circumstances, that the petitioner is having heart problems and he has been taking continuous treatment and that the petitioner has been in judicial custody from 02.02.2022 for the past more than 80 days.

13.The learned Additional Advocate General would submit that the Jail Authorities would take care of the health of the petitioner and if necessary, proper treatment would be given to him and that the petitioner has not shown any valid or acceptable change in circumstances, since the dismissal of the earlier petition.

14.As rightly contended by the learned counsel for the petitioner two Government Officials/Surveyor and Computer Operator were already granted bail by this Court.

15.Considering the facts and circumstances of the case and also the facts that the petitioner is in judicial custody from 02.02.2022 for the past 85 days that the co-accused, who were Government Officials were already granted bail by this Court and also taking note of the fact that the custodial interrogation was already over, this Court is inclined to grant bail to the petitioner subject to the following conditions:

16.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 Judicial Magistrate, Theni.



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

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(ii) the petitioner shall stay at Thiruvannamalai and report before the Thiruvannamalai Town Police Station daily at 10.30 am, for a period of 30 days and thereafter, 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/Trial 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/Trial 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/-
27/04/2022

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27/04/2022
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 JUDICIAL MAGISTRATE,
THENI.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.
3. THE DEPUTY SUPERINTENDENT OF POLICE,
MADURAI RANGE, VIGILANCE AND ANTI-CORRUPTION,
THENI.



4. THE INSPECTOR OF POLICE,
CBCID SOUTH POLICE STATION,
THENI, THENI DISTRICT.

5. THE OFFICER-INCHARGE,
DISTRICT PRISON, THENI.

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

COPY TO :

THE INSPECTOR OF POLICE,
THIRUVANNAMALAI TOWN POLICE STATION,
THIRUVANNAMALAI.

+1 CC to M/s.K.RAJESHWARAN, Advocate (SR-3924[I] dated 27/04/2022)

ORDER

IN

CRL OP(MD) No.7030 of 2022

Date :27/04/2022

das

USK/PN/SAR-I/27.04.2022/6P/9C