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CRL OP(MD). 1



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 27/07/2022

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL OP(MD). No.11165 of 2022

M.Kannadhasan

... Petitioner/Accused No.3

Vs

The State rep.by,
Station House Officer,
V and AC Unit,
Sivagangai Detachment.
Crime No.5 of 2022.

... Respondent/Complainant

For Petitioner : Mr.R.M.Arun Swaminathan,
Advocate.

For Respondent : Mr.R.M.Anbunithi,
Additional Public Prosecutor(Crl.side)

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

PRAYER :-For Anticipatory Bail in Crime No.5 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner is facing charges under Section 167 IPC and Section 7(C) of the Prevention of Corruption (Amendment) Act, 2018 in Crime No.5 of 2022 on the file of the respondent police.

2.The facts in brief are as follows:-

3.In 2016, the Government of India launched a scheme, called Pradhan Mantri Awaas Yojana Gramin (PMAY-G) with an intention to provide the poor people a house. In the aforesaid scheme, a selection committee was constituted comprising Zonal Deputy Block Development Officer, Panchayat Union Overseer and Panchayat Secretary. By utilizing the aforesaid position, the 3rd accused, namely Panchayat Secretary, colluded with other accused persons and disbursed the money without actually undertaking the construction of houses as per the guidelines pertaining to the period 2017-2018. By the aforesaid *modus operandi*, money has been misappropriated. Based on the aforesaid complaint, the present case was registered.



4. Seeking anticipatory bail, the 3rd accused, who is the Panchayat Secretary, has filed this petition on the ground that the alleged occurrence said to have taken place in 2018 and there was no immediate action. Only after a lapse of 4 years, the present complaint has been given.

5. The learned Additional Public Prosecutor (Crl.side) for the respondent would submit that the petitioner has played an important role in the selection committee and without verifying the facts at the ground level, he along with the other accused persons disbursed the money and misappropriated the same. During the course of investigation, statement of the petitioner was recorded, wherein he stated that by mistake, a sum of Rs.83,457/- was issued in favour of one Ayyamperumal. After coming to note that he is a wrong person, he was directed to remit the money. That was also remitted by him.

6. Similarly, the beneficiary, namely, Nagavalli did not put up any construction in the site. But one Rajendran put up the construction in his son-in-law's site. That person was also wrongly identified. That was accepted by the other committee members. So, according to him, one mistake was corrected by directing remittance of the amount and insofar as the other two items are concerned, there is no proper explanation on the part of this petitioner. Whether the money was recovered is not clear on records.

7. However, perusal of record shows that only in respect of the allotment made to the aforesaid Ayyamperumal, materials have been collected and *prima facie* ground was found out for proceeding further. In respect of other allegations, further action was dropped. So, as mentioned above, the aforesaid Ayyamperumal has remitted the amount. The allegation is that the petitioner did not properly inspect the site by local inspection.

8. So, considering this fact and considering the fact that the amount has also been remitted, whether this lapse was committed by the petitioner for pecuniary interest is a question for trial. So, on that ground, this Court is inclined to grant anticipatory bail to the petitioner.

9. Accordingly, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail in the event of arrest or on his appearance, before the learned Chief Judicial Magistrate/Special Judge, Sivagangai, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and the petitioner shall appear before the respondent police daily at 10.30 a.m. until further orders. The petitioner shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously.



10. The petitioner shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail shall stand dismissed.

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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 CHIEF JUDICIAL MAGISTRATE
/ SPECIAL JUDGE, SIVAGANGAI.
- 2 STATION HOUSE OFFICER
V AND AC UNIT, SIVAGANGAI DETACHMENT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.ARUN SWAMINATHAN R.M Advocate SR.No.7776.

ORDER
IN
CRL OP(MD) No.11165 of 2022
Date :27/07/2022

MM
MK/PN/SAR.III/29.07.2022/3P/5C