



CRL OP(MD). No.22586 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 20/12/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD). No.22586 of 2023

Ankit Tiwari,

... Petitioner/Sole Accused

Vs

**The Inspector of Police,
Vigilance and Anti-Corruption,
Dindigul District.
(Crime No.6 of 2023).**

... Respondent/Complainant

**For Petitioner : M/s.M.AjmalKhan, Senior Counsel
for Ajmal Associates,**

**For Respondent : Mr.Hasan Mohamed Jinnah
State Public Prosecutor
assisted by Mr.R.M.S.Sethuraman,
Additional Public Prosecutor and
Mr.S.Santhosh,
Government Advocate(Crl.Side)**

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

PRAYER :-

For Bail in Crime no.6 of 2023 on the file of the Respondent Police.



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ORDER : The Court made the following order :-

The petitioner/A1, who was arrested and remanded to judicial custody on 01.12.2023 for the alleged offence punishable under Section 7(a) of Prevention of Corruption Act, 1988 as amended Act, 2018 in Crime No.6 of 2023, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner is an officer of Enforcement Directorate and he made a phone call to the defacto complainant on 29.10.2023 asking him to appear before his office for enquiry in respect of disproportionate asset case. The defacto complainant further alleged that the petitioner has demanded a sum of Rs.3 Crore as bribe to close the case pending against the defacto complainant and later it was reduced to Rs.51,00,000/- and asked the defacto complainant to keep ready the said amount. Further the petitioner contacted him through whatsapp call on various dates and insisted him to keep ready the said amount. Thereafter on 01.11.2023 the defacto complainant gave a sum of Rs.20,00,000/- at Natham- Madurai road by recording the same in his car's dash board camera. Further the petitioner said to have continuously demanded balance amount from the defacto complainant on various dates. Since the defacto complainant is not willing to part with the money he

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preferred complaint before the respondent police on 30.11.2023, hence the case came to be registered.

3. The learned counsel appearing for the petitioner would submit that the petitioner has not committed any offence as alleged by the prosecution. He would further submit that the petitioner is serving as an Enforcement Officer at office of the Deputy Directorate, Sub Zonal Office, Madurai. He would further submit that as per the case of prosecution the petitioner contacted the defacto complainant on 29.10.2023 and a sum of Rs.20,00,000/- was paid to the petitioner on 01.11.2023, however the present complaint has been preferred after a period of one month i.e.,30.11.2023. Further the learned Senior Counsel would submit that the respondent police has already made a search at the house and office premises of the petitioner and no incriminating materials have been seized as against the petitioner. He would further submit no any case is pending against the petitioner. He would further submit that no trap was conducted and the money was recovered only the car of the petitioner in the Highways road. He would further submit that the petitioner has not signed in the statements and no enquiry is pending against the petitioner. He would further submit that the respondent police has taken custody of the petitioner and major part of the investigation is almost over. He would further rely upon the

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judgment of the Hon'ble Apex Court in the case of Sanjay Chandra .vs. Central Bureau of Investigation reported in (2012)1 SCC 40, wherein it is held as follows:

“21.In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.

22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, 'necessity' is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he



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has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances.

23. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any Court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an un-convicted person for the purpose of giving him a taste of imprisonment as a lesson.

24. In the instant case, as we have already noticed that the "pointing finger of accusation" against the appellants is 'the seriousness of the charge'. The offences alleged are economic offences which has resulted in loss to the State exchequer. Though, they contend that there is possibility of the appellants tampering witnesses, they have not placed any material in support of the allegation. In our view, seriousness of the charge is, no doubt, one of the relevant considerations while considering bail applications



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but that is not the only test or the factor : The other factor that also requires to be taken note of is the punishment that could be imposed after trial and conviction, both under [the Indian Penal Code](#) and [Prevention of Corruption Act](#). Otherwise, if the former is the only test, we would not be balancing the Constitutional Rights but rather "recalibrating the scales of justice.

25.The provisions of [Cr.P.C.](#) confer discretionary jurisdiction on Criminal Courts to grant bail to accused pending trial or in appeal against convictions, since the jurisdiction is discretionary, it has to be exercised with great care and caution by balancing valuable right of liberty of an individual and the interest of the society in general. In our view, the reasoning adopted by the learned District Judge, which is affirmed by the High Court, in our opinion, a denial of the whole basis of our system of law and normal rule of bail system. It transcends respect for the requirement that a man shall be considered innocent until he is found guilty. If such power is recognized, then it may lead to chaotic situation and would jeopardize the personal liberty of an individual”.



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4. He would further submit that petitioner is in custody from 01.12.2023 and he is also ready to abide by condition that may be imposed by this Court and hence he seeks bail.

5. The learned State Public Prosecutor appearing for the State would contend that the accused is working in the office of the Enforcement Directorate. He would further submit that the petitioner herein approached the defacto complainant through whatsapp call stating that a case is pending against him for which the petitioner has demanded a sum of Rs.3 Crore as bribe to close the case pending against the defacto complainant and later it was reduced to Rs.51,00,000/- and asked the defacto complainant to keep ready the said amount. Further the petitioner contacted him through whatsapp call on various dates and insisted him to keep ready the said amount. Thereafter on 01.11.2023 the defacto complainant gave a sum of Rs.20,00,000/- at Natham- Madurai road by recording the same in his car's dash board camera. He would further submit that trap was organized in which the accused was caught red handed. Phenolphthalein test also proved positive. He would further submit that ECIR No.MDSZO/18/2020 dated 06.06.2020 is pending against this petitioner and his wife. He would also submit that while recording statement he has not signed in the statement and he also refused to sign in the

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statements. He would also submit that some of the officials are also involved in the case and they are waiting for forensic report. He would further submit that voice test has to be taken for the accused. He would further submit that the custodial interrogation of the petitioner is very much required in this case and hence he seeks dismissal of the petition.

6. This Court has heard the arguments of the learned Senior Counsel for the petitioner, learned State Public Prosecutor appearing for the State and perused the materials available on record.

7. On perusal of the record it is noticed that a case has been registered in Crime No.6 of 2023 for the alleged offence punishable under Section 7(a) of Prevention of Corruption Act, 1988 as amended Act, 2018 on the file of the Director of Vigilance and Anti corruption, Dindigul on 30.11.2023, in pursuance to the complaint given by the defacto complaint/Dr.T.Suresh Babu, Chief Civil Surgeon, Government Head Quarters Hospital, Dindigul. Further it is noticed that the petitioner was intercepted on 01.11.2023 while taking Rs.20,00,000/- given by the defacto complainant as bribe for not taking action against him. He was arrested at Dindigul- Madurai highways while the money was taken in his TATA Altroz Car bearing Reg.No. MP 04 EA 1876

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and phenolphthalein test was also conducted upon his car bootspace where the cash bag was kept and the petitioner produced the cash bag to the Deputy Superintendent of Police in the presence of two official witnesses and the respondent police also seized the case properties on mahazhar. In this regard statement was also given by the petitioner which was denied by the learned counsel appearing for the petitioner as he did not sign in the statement. The prosecution has represented that the petitioner refused to sign in the statement. Further submitted that phenolphthalein test was also conducted and recovered bribe amount of Rs.20,00,000/- was taken from his TATA Altroz Car bearing Reg.No. MP 04 EA 1876. Further it is noticed that ECIR No.MDSZO/ 18/2020 dated 06.03.2020 is pending against the defacto complainant and his wife Mrs. R.Srinivasa Preetha.

8. The State Public Prosecutor would contend that the investigation is still pending and is in initial stage. Further some of the higher officials are involved in the entire transaction which has to be investigated and if the petitioner is released on bail investigation will be affected and there may be chances for tampering the evidence.

9. On facts the petitioner was arrested alleging that bribe amount of

Rs.20,00,000/-was recovered from the TATA Altroz Car of the petitioner bearing
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Reg.No. MP 04 EA 1876, in which phenolphthalein test was conducted upon the car bootspace. Further some of the higher officials are also involved in the transaction has also be taken into consideration. The grant or refusal to grant bail lies within the discretion of the Court.Each case has to be decided on its own merits. Further the judgment relied on by the learned Senior Counsel appearing for the petitioner is not applicable to the present facts of the case.

10. So far as the present fact of the case is concerned it is not disputed that alleged bribe amount of Rs.20,00,000/- has been seized from the TATA Altroz Car of the petitioner bearing Reg.No. MP 04 EA 1876 on 01.11.2023at Dindigul- Madurai highways by the respondent police. Phenolphthalein test was also conducted and it is proved positive. The accused also gave statement. Further the arguments of the learned State Public Prosecutor that they are suspecting the involvement of some other higher officials in this case has to be investigated cannot be ignored. Thus in totality of the circumstances of the case the reasons for declining bail raised on behalf of the State are convincing. Further investigation would be hampered if the bail is allowed. Hence this Court is not inclined to grant bail to the petitioner.



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11. In the result the petition stands dismissed.

sd/-
20/12/2023

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/12/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AAV
TO

- 1 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 2 THE INSPECTOR OF POLICE
VIGILANCE AND ANTI-CORRUPTION,
DINDIGUL DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.M/S.AJMAL ASSOCIATES, Advocate (SR-18211[I] dated
21/12/2023)

ORDER
IN
CRL OP(MD) No.22586 of 2023
Date :20/12/2023

PKP/DD/SAR- /26.12.2023/ 11P/ 5C

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