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Crl.O.P.No.23962 of 2024

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and Crl.M.P.No.17708 of 2023

C.V.KARTHIKEYAN, J.

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 406 and 420 of I.P.C in Crime No. 52 of 2023, seeks anticipatory bail.

2. It is the case of the prosecution that the defacto complainant has taken up a tender with the Government of Puducherry for Conversion of Low Tension overhead lines into UG Cable system in Naramambal, Pannithittu & Pillayarkuppam (Kirumampakkam O &M) in Puducherry coastal area under CD RRP Scheme. The petitioner herein had supplied labour to the defacto complainant for execution of that particular work. There are two allegations made against the petitioner herein. The first one is that he has prepared forged bills as if 85% of the work had been completed. The second one is about the payment of Goods and Services Tax. It is complained that while Government had imposed 18% of GST for services rendered for production of labour, the petitioner had however paid 12% of the G.S.T and had also created bills and collected



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that particular amount from the concerned persons. This had led the Government to raise a demand against the defacto complainant for payment of G.S.T of 18% and also had exercised their right to impose penalty on the defacto complainant.

3. The learned counsel for the defacto complainant states that in this manner the defacto complainant straight away suffered a loss to the tune of Rs.80,00,0000/-.One aspect which is in mind of the Court is that the defacto complainant should have divided two separate allegations against the petitioner herein one with respect to report of work done and other with respect of payment of bills.

4. So far as the production of bills with respect to work done is concerned, it is stated that the defacto complainant had instituted a suit for recovery of a sum of Rs.1.5 crores before the jurisdiction of Civil Court. The petitioner herein had filed written statement claiming a demand of Rs.3.5 crores. No counter claim had however been filed. It is stated that the petitioner herein had filed a complaint against the defacto complainant in Puducherry and there the defacto complainant had



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obtained anticipatory bail, on the ground that a suit is pending for the amount demanded by the petitioner.

5. The learned Government Advocate (Crl side) had stated that investigation has been completed with respect to the two separate aspects one is with respect to the claim of completion of work and substantiating that claim by produced fake bills.

6. The learned counsel for the intervenor however restricted the arguments with respect to non payment of G.S.T and statement with respect to the work done. With regard to bills received a separate suit has been filed.

7. It is not clear as to why the defacto complainant had not taken steps to file any claim for the G.S.T payment. Any way the petitioner has to pay either to the Government directly or through the defacto complainant. Since the final report has been filed and since in the complaint given by the petitioner, the defacto complainant has been granted bail, this Court is inclined to grant anticipatory bail to the



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petitioner. It is made clear that the respondent should file a charge sheet and the defacto complainant should produce all the relevant documents to the respondent.

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the **learned Judicial Magistrate No.1, Ponnammallee, Chennai** on condition that the petitioner shall execute a separate 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 respondent police or the police officer who intends to arrest or to the satisfaction of this Court concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.



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[b] the petitioner shall appear before the respondent police daily at 10.30 a.m., until further orders.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.

[e] 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]**.

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

The above miscellaneous petition is allowed.

07.02.2024

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