



Crl.O.P.No.26376 of 2023

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C.V.KARTHIKEYAN, J.

The petitioner in Crime No.3 of 2023 registered by the respondent police for the alleged offences punishable under Sections 409, 420 r/w 34 of IPC and 13(1)(a) of Prevention of Corruption Act seeks anticipatory bail.

2. It is stated by the learned Public Prosecutor (Puducherry) that the petitioner, a Pharmacist had received and distributed medicine (iron sucrose injection) to pregnant women in primary health centres and to the students in Educational Institutions. It was found that the said medicines were substandard and when, pregnant women were actually injected those medicines, they contained sediments and they emanated pungent smell.

3. It is the further case of the respondent that the medicines had been supplied by the petitioner after procuring them from two separate



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enterprises namely M/s.Sai Ram Agency in which the wife of the petitioner was a partner and M/s.Sri Padmajothi Enterprises in which a friend of the petitioner also had a direct interest.

4. It is stated that in this manner the petitioner had supplied either substandard medicines or supplied medicines in large quantity which naturally meant that even before they could be put to use, they suffered expiry and therefore, under those circumstances the respondent had suffered a loss of Rs.44,03,252/-. It is under those circumstances that a complaint had been lodged by the Officer on Special Duty, Directorate of Health and Family Welfare Services, Pudhucherry and on the basis of such complaint, the first information report had been registered.

5. Learned counsel for the petitioner first pointed out that the petitioner had been chosen only on contract basis and therefore cannot be termed as a full time employee under Union Territory of Puducherry. It was for a specific period that he was entrusted with a contract to supply medicines for usage in primary health centres to administer to pregnant



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women and also to supply to educational institutions for administering to students.

6. It is also contended by the learned counsel that the Union Territory of Puducherry had formed specific committees both for procurement and only on the advice of such committee that the petitioner had purchased procured medicines and thereafter supplied them to the Primary Health Centres and to Educational Institutions. It is therefore contended that the petitioner was not responsible for the quality of the medicines which had been supplied or for the bulk quantity which had been supplied.

7. It is contended that the committees formed for this specific purpose oversaw the entire operation and the petitioner has been made a scape goat in the entire issue. It is also stated by the learned counsel that the petitioner being only a contractor with limited role of supplying the medicines, cannot be mulcted with the offences alleged against him. It is contended that the provisions of Prevention of Corruption Act had also



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been stated and it is stated by the learned counsel that it is the contention of the respondents that the Government had suffered a loss of Rs.44,00,000/- whereas corresponding gain by the petitioner had not been stated anywhere in the first information report or in the complaint. It is therefore contended that the petitioner is entitled for anticipatory bail and the learned counsel stated that this Court should so grant such an order for the benefit of the petitioner.

8. The learned Public Prosecutor appearing for the Union Territory of Puducherry however disputed every contention raised. It is contended that this petitioner had the authority to procure the medicines and had misused such authority by procuring medicines from M/s Sairam Agencies in which his wife was directly interested and also from M/s Padmajothi Enterprises, wherein a friend of the petitioner was directly interested. It had been stated that when these medicines had been supplied to Primary Health Centres and administered to pregnant women they suffered and also the students of the educational institution had vomited and further treatment had to be given. It is also contended by the



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learned Public Prosecutor (Puducherry) that this petitioner was the prime accused and stated that he was responsible for the supply of not only substandard medicines, but also medicines which could have caused much harm to those to whom they have been administered. It is also been contended by the learned Public Prosecutor that investigation will have to be done on all these issues and therefore, objections have been raised for grant of any relief to the petitioner.

9. I have carefully considered the arguments. The petitioner had the benefit of being appointed as a Contractor for supply of medicines to all the institutions, Primary Health Centres where pregnant women come for treatment from the rural areas in and around Puducherry and to Educational Institutions, where students would have to be administered with medicines. Pregnant women and students are vulnerable sections of the society, particularly keeping in mind their physical condition. The petitioner having had the benefit of contract of supplying medicines should have taken utmost care to ensure that medicines of good quality are supplied. He could have taken pride if at



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all a pregnant woman delivers a child and could have taken a pride in the fact that the child was born owing to the quality of the medicines which he had supplied. The petitioner had also the benefit of supplying good quality medicines to educational institutions and could again have looked back at such supply with much pride if the students' health had benefited by supply of the medicines. But, unfortunately the petitioner had chosen two enterprises, wherein his own wife was directly involved and his friend was directly involved and they took advantage of this petitioner by supplying medicines of substandard quality. It is specifically stated that pregnant women suffered owing to administration of these medicines. Not only did the women have suffer, but, if the medicines were dangerous, they could also have caused danger for the foetus in the womb of the young mothers. Children are also suffered. It is specifically stated that a pungent odour emanated. It is also stated that the coating, was not of good quality.

10. The statement of the learned counsel that there was a committee formed, takes the petitioner neither here nor there since the



suppliers were his own wife and friend. The petitioner should have known about the quality of the medicines supplied by the enterprises run by his wife and his friend. He should not have procured the medicines if they were of substandard quality. Having knowledge of that substandard quality and having supplied those medicines, the petitioner cannot fall back on the responsibilities of the committee. It is also contended by the learned counsel that only loss to the Government had been stated. Corresponding gain is evident on the face of transactions. The gain is by the wife of the petitioner. The gain is by the friend of the petitioner. When the wife gains, the petitioner as a husband also gains and when a friend gains money, the petitioner as a corresponding friend also gains. Therefore, at every stage, the petitioner has unlawfully gained a substantial amount if not Rs.44,00,000/- by this supply of substandard medicines to the Government of Puducherry. The petitioner should introspect at the ill effects such substandard medicines would cause to pregnant women who expect a child to be born in their family and to young children in educational institutions who had a future ahead of them. Their health would have been directly affected because of the



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substandard medicines supplied by the petitioner herein. I am not inclined to take on record the claims of innocence and the claims of ignorance by the learned counsel who also sought indulgence of this court. Indulgence is refused. The petition stands dismissed. The respondent is directed to take the petitioner on custody and report the fact to this Court.

11. List the matter once again on 09.02.2024 at 2.15 p.m., for the respondent to report taking into custody the petitioner failing which, the Inspector of Police, Vigilance and Anti Corruption Unit, Puducherry would be called upon to appear before this Court and the Court would not hesitate to state that the said Inspector has no regard either for the badge or the uniform he wears.

12. List the matter on 09.02.2024 at 2.15 p.m. under the caption 'for reporting compliance'.

Vv

29.01.2024



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Vv

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