
(2014) 03 MAD CK 0132
In the Madras High Court
Case No : Criminal O.P. No. 4988 of 2014

Alex C. Joseph

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 14-03-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 161
Penal Code, 1860 (IPC) — Section 120B 420 467 468 471
Prevention of Corruption Act, 1988 — Section 13(1)(d)

Citation : (2014) 03 MAD CK 0132

Hon'ble Judges : P. Devadass, J

Bench : Single Bench

Advocate : R. Vivekananthan, for the Appellant; N. Chandrasekaran, Spl. P.P. for C.B.I. cases, for the Respondent

Final Decision : Dismissed

Judgement

P. Devadass, J.—Petition for bail. Offences alleged are under Sections 120B, 420, 467, 468 r/w. Section 471 of IPC and u/s 13(1)(d) of P.C. Act, 1988.

2. Petitioner is A-2 in this case.

3. According to the learned Senior Counsel appearing for the petitioner, allegation of improper importing of luxury cars was made as early as in 2008. However, with regard to that, nearly after 5 years, the present case has been registered. Actually, even as per prosecution version, 30 luxury cars are involved. However, in the FIR, 33 cars have been mentioned. It shows the haste in which the case has been registered with incorrect information. Further, for furnishing of incorrect information by A1 in his report, petitioner is being proceeded with, that too belatedly. The said report is available with the prosecution. Further, the case is also based on RTO records. They are all official records. They cannot be tampered with by the petitioner. Major part of investigation is also over. Petitioner is in jail since 3.2.2014. His detention under COFEPOSA was also set aside by the Kerala High Court. Petitioner was under the surveillance of CBI for a

long time. Between 2008 and till date, he did not come under any adverse notice nor commit any offence. His custodial interrogation is also over. In the circumstances, the learned Senior Counsel would submit that the petitioner may be granted bail.

4. According to the learned Special Public Prosecutor for CBI Cases, petitioner is a kingpin in the importing of luxury cars from abroad. He sold them at a cheaper price. By this, he has cheated Government of India to the tune of Rs. 48.40 Crores. Very Very important persons are his clients. His nefarious activities in connivance with an insider, D.R.I. namely, A-1 came to light only recently and thus recently they were booked. Petitioner did not cooperate with the investigation agency. He has eluded the police dragnet for long time. He hide himself somewhere. He went underground. Lookout Notice was also issued against him. In the circumstances, NBW was obtained from the trial court. With great difficulty, he was located at Hotel Taj Palace in New Delhi on 1.2.2014. He was nabbed, produced before a Court in Delhi, brought to Madras under a transit warrant, produced before the Trial Court and was remanded to judicial custody on 3.2.2014. Petitioner has V.I.P. clients. They are keeping the cars in certain undisclosed places. They have to be seized. Many influential persons have to be interrogated. Documents have to be seized. Petitioner also did not cooperate during his custodial interrogation. He has connection in various foreign countries. He has strong roots in Dubai. Now, he assumed the name "Abi Jhon". He has fake passport in his such name. If he is released on bail, he will hamper the on-going investigation and he will also flee away from justice.

5. I have anxiously considered the submissions of the learned counsels, perused the averments in the bail petition, CBI's counter and also the case-dairy.

6. This case concerned with the alleged maneuvering and duping of Government of India by a well known international car broker, namely, Alex C. Joseph @ Abhi Jhon.

7. He is alleged to have exploited the passion of Indians to have foreign made luxury cars. It is stated that NRI's, who have purchased such luxury cars, when return India can have such costly cars after fulfilling certain requirements as per rules. It is alleged that the petitioner under certain fictitious names of such N.R.I.'s imported luxury cars and duped the Government of India to the tune of Rs. 48.40 Crores. The cars were imported at different phases in different numbers during a course of period. This was detected in 2008. A-1, an Intelligent officer in DRI was directed to probe this murky deal and the shady transactions. The luxury cars were sold by A-2 to several big personalities including high profile politicians. A-1 submitted his report about them with incorrect information. It was found that there was some unholistic alliance between him and A-2. A case has been registered for offences mentioned in para-2 above.

8. As regards the submissions of the learned Senior Counsel for the petitioner that the number of three cars, mentioned in the FIR did not tally, it is to be noted

that F.I.R. is not be and end of all. It sets the criminal law in motion/action. The crux of the matter is whether it discloses any cognizable offence to investigate it. The details in F.I.R. need to be verified in the course of investigation and any incomplete information necessarily have to be kept aside.

9. It is true that this case has connection with the shoddy work done by A-1 in 2008. It came to light only recently. Thus, now a case has been booked. It includes certain IPC offences also. In such circumstances, the argument based on 2008 event also will not come handy to the petitioner.

10. After registration of the present case, CBI issued summons to A-2 u/s 161 Cr.P.C. for interrogation. He avoided it. He filed Crl.O.P. No. 15025 of 2013 seeking anticipatory bail. On 24.7.2013, it was dismissed by this Court. Then, he tried for quashing the FIR by filing Crl.O.P. No. 32743 of 2013. On 18.12.2013, it was also dismissed by this Court. Several attempts were made to near him for interrogation went in vain. Ultimately, he went underground. Since he had connection at several high places and had the habit of suddenly escaping from the scene CBI obtained non-bailable warrant from the Special Court for CBI Cases, Chennai.

11. He was sighted at a posh Hotel, in New Delhi, namely, Taj palace, New Delhi and was arrested by CBI on 1.2.2014 and under a judicial transit warrant, he was brought to Chennai and on 3.2.2014 he was remanded to judicial custody by the said Chennai Special Court. Earlier, there was Lookout Notice as against him. His detention under COFEPOSA Act has been revoked by the Kerala High Court on certain technical grounds.

12. Practically there is no cooperation from him to the investigation agency. It is stated that several documents have been seized. Several big personalities have to be examined. Number of luxury cars have to be recovered from very big persons. At this juncture, if he comes out on bail, he will throw hammer in the smooth running of the wheel of investigation. Looking from his antecedents, there is possibility of his going into oblivion also cannot be ruled out.

13. In bail matters, to decide the issue, "Jail v. bail" the important aspects are existence of a prima facie case, nature of accusations, its seriousness, nature of supporting evidence, reasonable apprehension of tampering with the investigation, eluding and escaping tendency of the accused, his past conduct/behavior, his abiding interest or habitually in committing crimes are to be considered.

14. Now, in this case, there is a strong prima facie case as against the petitioner. Very serious allegations are made against him. The magnitude of the amount cheated is also indicative of the seriousness of the offence committed. Many records showing involvement of the petitioner have been seized. He has big connections. There is sufficient reason to believe that he has potentiality to hamper the on-going investigation by indulging in some maneuvering exercises. His past is not good. Looking at his past attitude, if let out, possibility of he

bidding farewell to the law enforcing authorities cannot be ruled out.

15. In view of the foregoing, this court is of the considered view that the petitioner's case is not a fit case for grant of bail now. Thus, this bail petition is dismissed.