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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION NO. 12699 of 2020

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RAMENDRASINH JAYSINH KUSHVAH
Versus
STATE OF GUJARAT

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Appearance:

MR KB ANANDJIWALA, SR. ADVOCATE with
MR YASH K DAVE(10269) for the Applicant(s) No. 1
VISHAL K ANANDJIWALA(7798) for the Applicant(s) No. 1
MS NISHA THAKORE, APP (2) for the Respondent(s) No. 1

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CORAM: **HONOURABLE MR. JUSTICE RAJENDRA M. SAREEN**

Date : 11/02/2021

CAV ORDER

RULE. Ms. Nisha Thakore, learned APP waives service of notice of rule on behalf of the respondent State.

1. The petitioner - original accused No.1 has preferred this petition under section 438 of the Code of Criminal Procedure for anticipatory bail in connection with the offence registered with ACB Police Station, Godhra vide C.R.No.08/2020 for the offences punishable under sections Section 13(1)(b) and 13(2) Prevention of Corruption Act (Amendment), 2018.

2. The petitioner has filed written submissions as under:-

2.1. As per the case of the petitioner, one

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Jesingbhai Damor, Police Inspector, Panchmahal ACB Police Station was investigating in connection with Asymmetrical properties of the accused. Earlier the offence was registered against the accused persons who were discharging their duty at Shahera. The offence was registered at Shahera Police Station vide C.R.No.I-36/2018 for the offences punishable under Sections 406, 420, 465, 467, 468, 471, 409, 120-B, 34 of IPC and also under Section. 66B of the I.T.Act. Later on as the petitioner and another accused persons were the public servants, the charge under sec. 13(1)(c) r/w sec. 13(2) of the Prevention of Corruption Act, was added. In that case the charge-sheet was also filed in January, 2019. As the petitioner was apprehending his arrest in connection with that offence, he preferred Criminal Misc. Application No.11596/2018. This Court (Coram: Hon'ble Mr. Justice A.Y. Kogje) by order dated 14/8/2018 granted anticipatory bail to the petitioner. According to the petitioner, in the order, the coordinate bench of this Hon'ble Court has observed after taking into consideration the submission in para-5(ii), the submissions on behalf of the petitioner that the petitioner was in charge only during the period between 31/3/2017 to 18/3/2018 and during this period the petitioner had signed only two Payment Orders and no payment pursuant to these payment orders is released. In Para-5(iii) the Court observed that the other payment orders appears to be under the signature and as per the Password allotted to co-accused Mr. C.L. Patel. The most important aspect is that though this Court

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observed after verification of the document that the petitioner had signed only two payment orders, however, no payment pursuant to these payment orders is released. The petitioner, on verification of the work found that as such no such work was ever done and, therefore, immediately he stopped the payment to the Contractors. According to the petitioner, some of the contractors were politically connected and, therefore, under the pressure of politicians, he was impleaded as accused falsely in the case though subsequently the investigation has been done by ACB, Godhra. The petitioner could have been dropped by the ACB, the pressure prevailed upon the ACB also to continue him as accused in the case.

2.2. According to the petitioner, after getting sanction and direction from Chief Police Officer, Director, ACB Gujarat State, Ahmedabad vide letter No. INV/D/Panchmahals/07/2018/5940 dated 14/12/2018, he was directed to investigate against the petitioner-accused. It is pertinent to note that in the FIR which is lodged after more than 1.½ year, the I.O., ACB collected all the documents including Bank Accounts, documents pertaining to properties from Sub-Registrar's Office as well as from the accused petitioner and so many other details about the source of income so far as the petitioner and his wife are concerned. In the FIR, on Page-1 there is specific mentioning about the investigation and the seizure of documents from the accused person for the purpose of investigation into this

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case. This would clearly show that the petitioner has cooperated with the investigation thoroughly and whatever documents were needed and required by the Police, they have been supplied including the statements of Bank Accounts, Income-tax Returns, documents with regard to purchase and sale of properties and the police has also seized from the Office of Sub-Registrar. Only after collecting all the documents, the present FIR has been filed by the police on 6/8/2020. The Investigating Officer has already sealed the salary account of the petitioner as well as other bank accounts of the petitioner and his wife's accounts. This is nothing else but harassment to the petitioner and his wife. The above aspect would clearly show that the petitioner has completely cooperated with the investigation and nothing remains to be interrogated by taking him on remand. Therefore, the petitioner deserves to be released on anticipatory bail on this count alone. By granting anticipatory bail, the right of taking the accused-petitioner on remand can never be taken away. Even this Hon'ble Court in number of orders keeping the matter alive granted interim relief of not to arrest and directed the petitioner-accused to cooperate with the investigation. Not only that, but ACB Officer has been directed to submit the reply before the Hon'ble Court. In the present case, though a request was made, the learned APP bluntly refused to submit details of investigation which has been done. It appears that they never wanted to bring the true facts on record which requires

condemnation.

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2.3. According to the petitioner, by mentioning tabular form the FIR has been lodged, however, the tabular forms are absolutely vague stating only the figures. Though it is a case of disproportionate assets, there is no specific mention as to which asset has been purchased in regular transaction course by making payment of official amount. There is also no mention that which asset is purchased illegally which can be considered as disproportionate asset. Therefore, a request was made for filing affidavit stating details about the assets.

2.4. According to the petitioner, following are the aspects which have not been taken into consideration.

i) The father of the petitioner had purchased one house in the name of the present petitioner situated in D.D.Nagar, Madhya Pradesh in the year 1992. However, the petitioner sold the said house in the year 2010 at Rs.29 lacs. The intimation was given to the Department regarding purchase and sell of the house so also the documents with details have been submitted to the I.O.. It was also intimated to the I.O. that the sale proceeds of the said house i.e. Rs.29 lacs have been utilized for purchasing another property. No doubt this transaction is before the Check period i.e. 1/4/2011 and 31/3/2018. Despite the fact that the properties had been purchased from this amount, whether it has been

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taken into consideration in calculation or not that is not coming forth from the bare reading of the FIR.

iii) The petitioner has purchased one property -agricultural land at village Dhobarpur, Dist: Gwalior in the year 2008. The said property was purchased in the name of his wife and himself from the salary income, house rent income, rents of shops income and agricultural income. The said land was sold by the deed dated 8/8/2011 at Rs.1,91,25,000/-, Regarding this purchase and sale of the land, the intimation was given to the Department and the documents have been given to the I.O. Rs.1.40 crores have been received by cheque and Rs.51 lacs were received in cash. These amounts have been invested in purchasing the other properties at Vadodara. The chart as shown in the tabular form on Page No.4 (typed page No.9/10) of the FIR, would not reflect the income of Rs.1,91,25,000/- in the year 2011-12. The document is produced on record as Annexure on Page-44. This tabular form itself is defective one. It is mentioned that the opening balance of check period is Rs.1,13,31,861/-. Thereafter the income during the check period is Rs.5,92,27,582/-. Investment during the check period is Rs.7,42,79,969/-. The details about the property is not mentioned and thereafter expenses during the check period is shown as Rs.3,34,02,681/-. How the Investigating Officer arrived at this figure is still a question and mystery. In a period of 7 years, it is absolutely unbelievable and unacceptable that a family of two soles would spend Rs.3,34,02,681/-. Therefore,

looking to the column of expenses during the check period is absolutely unbelievable and unacceptable. In the tabular form on page no.7 (typed page No.9/12) the amount of sale of Rs.1,91,00,000/- has not been shown and this calculation has been made with a view to coming-out the disproportionate assets. This is nothing else but jugglery of figures. On one hand the I.O. has said the lawful income is Rs.5,92,27,582/and investment in the property is Rs 7,42,00,000/and very huge amount is shown towards expenses and, therefore, the percentile of disproportionate assets is 62.68%. It clearly shows that the investigation is not proper one.

iv) That the petitioner is also having agricultural income. During the period of 1989 to 2018 he earned about Rs.17 lacs by way of agricultural income, however, the same has not been considered.

v) Similarly, the petitioner is earning House Rent and Rents from the shops and during the years 1989 to 2018, he got about Rs.10.75 lacs by way of rent. All these items have been shown in the Income-tax Returns by the petitioner and the copies of the income-tax returns have been given to the police during the course of investigation. Not only that, but five statements have been recorded by the Investigating Officer of the petitioner and all these items have been explained, however, there is no reflection.

vi) That as stated in the FIR on page no.5 (typed page

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No.9/8) the Investigating Officer has considered the income earned by the wife of the petitioner also for coming to the conclusion. The petitioner has produced various documents like Current Account statements, Income-tax Returns and other documentary evidence to show that his wife is business lady and earning huge amount from various sources of income. In Income-tax Returns which she has filed from the years 2002 to 2017-18, Rental income, Business commission, sale of agricultural land and Petrol pump incomes have been reflected, which the I.O. has not been considered.

2.5. According to the petitioner, the petitioner has cooperated with the investigation thoroughly and produced all necessary documents as asked for and required by the I.O. According to the petitioner no further interrogation and document is required to be given to the I.O. and even if the Investigating Officer wants to interrogate the petitioner and requires seizure of some documents, the petitioner is ready and willing to cooperate with the investigation even after granting anticipatory bail.

2.6. Learned advocate for the petitioner has relied on the decisions in the case of Sri Gurbux Singh Sibbia & others reported in AIR 1980 SC 1632 and in the case of Siddharam S Mhetre Vs. State of Maharashtra reported in 2011(1) GLH -11.

2.7. According to the petitioner, the petitioner was

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falsely implicated in earlier case. Petitioner has cooperated with the I.O. by producing all bank accounts, income tax returns, rent receipts of shops and house, agricultural income. Therefore, presence of the petitioner is not required for investigation. It is further submitted by the learned counsel of the petitioner that this Court has granted interim relief in other similar offence protecting the accused to cooperate with the investigation and copies of such orders are placed on record.

2.8. The petitioner ultimately has prayed to grant anticipatory bail to him on any terms and conditions, the petitioner is not going to jump the bail as his Passport is already seized and the same is already expired, he has not got his passport renewed, therefore, there is no question of jumping the bail. According to the petitioner, as the case hinges on documentary evidence only, there is no question of tampering of any witnesses. Therefore, the petitioner requested to grant anticipatory bail to the petitioner.

3. The learned APP Ms.Nisha Thakore, has opposed the present anticipatory bail application. The learned APP has filed the written submissions raising the following contentions:-

[1] It is contended that the designation of the petitioner was Assistant Director , Gujarat State of Land Development Nigam Ltd. and various post held by petitioner during check period i.e. from 01.04.2011 to 31.03.2018, under Gujarat State

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of Land Development Nigam Limited. During the year 2011-2012, the petitioner was Field Officer, Dharampur, during the Year 2012-2014, he was Field Supervisor, Chotaudepur, during the year 2014-2017, he was In-charge Assistant Director (land reforms), Chotaudepur, during the year 2017-2018, he was Assistant Director, Bharuch, during the year 2017-2018, he was Assistant Director, Godhra having additional charge and at the time of registration of FIR, he was serving as Assistant Director at Amreli and thereafter he is under suspension.

[2] It is further contended by the learned APP that the petitioner - original Accused No.1 misused his official position and by involving in corrupt practice, committed alleged offence in as much as against the official income earned by the petitioner, as disclosed in IT returns, during check period is worth Rs.5,92,27,582/-, and considering deduction towards expense, his illicit income in the nature of investment and property owned is worth Rs.3,71,23,208/-. Thus, there is rise in the income to the extent of 62.68% as compared to the source of official income.

[3] According to the learned APP, as per the investigation carried out so far, prior to lodgment of FIR in question, the name of petitioner surfaced in offence registered with Shahera Police Station, Panchmahal bearing FIR no. I-CR No. 36/2018, for the offence punishable under sections 406, 420, 465 of IPC as well as section 13(1) (c) and section 13(2) of the Prevention of Corruption Act. The gist of the said FIR was in respect of Khet Talavdi scheme in District Panchmahal, whereby at relevant time the petitioner was in charge as Assistant Director, GLDC, Godhra.

WWW.LIVELAW.IN

[4] It is further contended by the learned APP that one Public Interest litigation was preferred before the Hon'ble High Court being SCA No. 4425 of 2010, wherein the Hon'ble Division Bench was pleased to direct the State Government to proceed against the erring officers of Gujarat Land Development Corporation.

[5] It is further contended by the learned APP that the F.I.R. in question came to be registered on 06.08.2020. However, till date the petitioner has remained absconded inasmuch as he has tried to avoid arrest, being not found at his house or office and has not co-operated in the investigation. The Sessions Court rejected his Anticipatory Bail Application vide order dated 24.08.2020 and thereafter vide order dated 28.08.2020, warrant under Section 70 of the Cr.P.C. has been issued by the Learned Session Judge, Dahod against the petitioner.

[6] According to the learned APP, prior to lodgment of F.I.R., the petitioner herein - Original Accused No.1 was called upon to submit explanation about the aforesaid allegations. The petitioner herein- Original Accused has submitted reply but there is no explanation about the known sources of income as against the payment made by investing in property purchased by the petitioner during the aforesaid check period. The said report does not whisper about the expenses made by the petitioner during the aforesaid check period and neither it furnish any details like statement of bank account, investment in movable/immovable properties etc.

[7] It is further contended by the learned APP that during the course of investigation, the available details of salary account of the petitioner with S.B.I. Bank of Chhotaudepur Branch, bearing Account No.10713729440 was collected and analysis of the statement of said Bank Account reveals that the total official income earned by the petitioner in his official position during the aforesaid check period so deposited in the said Bank Account comes to around Rs.30,31,328/-. The further examination of the said details shown that only entry with regard to withdrawal is once for an amount of Rs.10,000/-. It is therefore, humbly stated and submitted that in absence of any further withdrawal of any amount from the said Bank Account and no explanation being given by the petitioner in his reply regarding the daily expenses as well as the investment being done by the petitioner in the property purchased in the name of wife more particularly at Bhid, Gwalior, M.P. , Vadodara, Savali, raises presumption of illicit income.

[8] It is further contended by the learned APP that the details so far collected with regard to immovable properties purchased by the petitioner either in his name or his family members reveals total 11 land transactions which includes 3 major transactions of immovable properties namely, (a) Land at Gwalior, Revenue Survey No. 466/1 was purchased by the petitioner for sale consideration of Rs.1,71,62,600/- by registered sale deed dated 23.05.2008. The bank statement of check period reflects that amount of Rs.1,30,00,000/- is deposited by the seller in the bank account of petitioner. Actual sale price fixed was Rs.1,40,00,000/-. No explanation is tendered by petitioner regarding mode of payment of difference

of huge amount of Rs. 10 Lakhs, which raises presumption of illicit income; (b) Land at Vaghodiya, Vadodara purchased in partnership with Urmilaben Krishnakumar Gorelal Upadhyaya, no explanation tendered regarding payment of consideration against purchase of said property. The registered sale deed dated 04.09.2012 mentions sale consideration of Rs.76,86,000/-. Taking 1/3rd payment made by petitioner it comes to around Rs. 37,56,200/-; (c) Plot No. 39 of Kunj Co. Housing Society at consideration amount of Rs. 3,08,00,000/- and no explanation tendered with regard to payment of cash amount of Rs. 1,90,18,300/-.

[9] According to the learned APP, so far as purchase of land at village Vaghodiya, Vadodara in partnership with Urmi Krishnakumar is concerned, the said co-owner is wife of Krishnalal Upadhyay, a Government Employee holding post of Field Supervisor and was working under the Petitioner herein and against said Krishnalal Upadhyay, around 16 FIRs have been registered for offences punishable under the provisions of Prevention of Corruption Act and also disproportionate assets case which involves Rs. 4.12 crores.

[10] According to the learned APP, as Assistant Director of Gujarat Land Development Nigam Ltd., the Petitioner herein was entrusted with duty to look into the implementation of various Government Schemes floated by the State Government to extend benefit to small farmers, which also includes allotment of land, construction of ponds etc. So far as the posting of Petitioner during the aforesaid check period is concerned, he had served as Assistant Director in the Zone which covers Districts

like Bharuch, Surat, Vadodara, Chotaudepur and Godhra. His official permanent residential house is also situated at Vadodara.

[11] According to the learned APP, in such circumstances, the purchase of land, more particularly at Vaghodiya, Vadodara and Plot No.39 at Kunj Co. Society at Vadodara (Rs. 3,08,00000/-) out of which, payment of Rs. 1,90,18,300/- is required to be clarified. As well as purchase of two shops at Benison complex are concerned raises presumption about illegal sources of income being used as against the official sources of income as Government Employee.

[12] According to the learned APP, there are other 9 registered sale deeds details being recovered by the I.O. related to land transactions in name of wife of petitioner (Sangeetaben), in respect of lands situated at Savli, during check period. The total consideration amount as mentioned in sale deeds goes at around Rs. 67 lacs. However, the actual worth of the said lands is beyond the consideration amount as mentioned in sale deeds.

[13] According to the learned APP, in light of the aforesaid factual details being collected by the Investigating Officer during the course of investigation, the custodial interrogation of the petitioner herein is necessary to ascertain the aforesaid transactions in detail, more particularly, the generation of sources of income used against payment of purchase of immovable properties. There are all likelihood that there may be other properties which have yet not surfaced in the investigation so far done.

[14]. Learned APP has also placed reliance on amended section 13 and has also relied on the following decisions :

1. *(2014) 9 scc 1 : Manoj Narula case , Constitutional Bench*
(Para 17)
2. *(2014) 8 SCC 682 : Subramanium swamy case*
(Para 59, 71 to 82)
3. *(2012) 4 SCC 379 : Jai Prakash Singh V. state of Bihar*
4. *(1980) 2 SCC 969 : Gurbaksh Singh Sibbia Para 122*

[15] Learned APP has submitted that considering the nature of gravity of accusation in the present case, there is a specific role attributed against the present petitioner in the F.I.R. about involving in corrupt practice and having disproportionate assets. The record reveals the involvement of the present petitioner in past in other similar offences. The petitioner herein is having native place at M.P. and there are likelihood of petitioner fleeing away from investigation in as much as the petitioner has evaded arrest by not co-operating in investigation till date, since registration of F.I.R.

[16] It is further contended by the learned APP that considering the designation of the petitioner, there are all likelihood of petitioner having misuse his official position by involving himself in purchase of immovable property. The importance of custodial interrogation in such nature of accusation becomes more necessary for verifying the actual nature of transaction as well as to unearth other transactions

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which may lead to disclose of relevant materials, to bring home the charge. The I.O. has expressed involvement of other Government Officers being involved in such activities.

[17] By making above submissions, learned APP has submitted that this Court may not exercise discretion in the facts of the case, more particularly considering the nature and gravity of accusation, as against the materials so far collected against the petitioner prima facie satisfies the ingredients of Sections 13(1)(b) and 13(2) of Prevention of Corruption Act (Amendment), 2018 and the checkered history indicates the magnitude of the offence which may lead to discloser of other officers being involved in such corrupt practices.

4. I have heard the learned senior advocate for the petitioner and learned APP for the State. I have also gone through and considered the material as well as the written submissions placed on record by the respective parties. I have also considered and gone through the decisions relied upon by the respective parties.

4.1. As per the gist of the FIR and case of the prosecution, the petitioner - original Accused No.1 has misused his official position and by involving in corrupt practice committed alleged offence in as much as against the official income earned by the petitioner, as disclosed in IT returns, during check period is worth Rs.5,92,27,582/-, and considering deduction towards expense, his illicit income in the nature of investment and property owned is worth Rs.3,71,23,208/-. Thus, there is rise in the income to the extent of 62.68% as

compared to the source of official income.

4.2. It is relevant to mention here that It is pertinent to note that one Public Interest litigation was preferred before the Hon'ble High Court being SCA No. 4425 of 2010, wherein the Hon'ble Division Bench was pleased to direct the State Government to proceed against the erring officers of Gujarat Land Development Corporation.

4.3. It is also relevant to note that the F.I.R. in question came to be registered on 06.08.2020. However, till date the petitioner has remained absconded inasmuch as he has tried to avoid arrest and not found at his residence or office and has not co-operated in the investigation. The Session Court rejected his Anticipatory Bail Application vide order dated 24.08.2020 and thereafter vide order dated 28.08.2020, warrant under section 70 of the Cr.P.C. has been issued by the Learned Session Judge, Dahod.

4.4. It is also relevant to note that as per the case of the prosecution, prior to lodgement of F.I.R. the petitioner herein - Original Accused No.1 was called upon to submit explanation about the aforesaid allegations. The petitioner herein- Original Accused has submitted reply but there is no explanation about the known sources of income as against the payment made by investing in property purchased by the petitioner during the aforesaid check period. The said report does not whisper about the expenses made by the petitioner during the aforesaid check period, neither it furnish any details like statement of bank account, investment in movable / immovable properties etc.

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4.5. It is also relevant to note that as per the case of the prosecution, during the course of investigation, the available details of salary account of the petitioner with S.B.I. Bank of Chhotaudepur Branch, bearing Account No.10713729440 was collected and analysis of the statement of said Bank Account reveals that the total official income earned by the petitioner in his official position during the aforesaid check period so deposited in the said Bank Account comes to around Rs.30,31,328/-. The further examination of the said details shown that only entry with regard to withdrawal is once for an amount of Rs.10,000/-. In absence of any further withdrawal of any amount from the said Bank Account and no explanation being given by the petitioner in his reply regarding the daily expenses as well as the investment being done by the petitioner in the property purchased in the name of wife more particularly properties situated at Bhid, Gwalior, M.P., Vadodara and Savali, raises presumption of illicit income.

4.6. Considering the overall facts and circumstances of the case and the details so far collected with regard to immovable properties purchased by the petitioner either in his name or his family members reveals total 11 land transactions which includes 3 major transactions of immovable properties namely, (i) Land at Gwalior, for which no explanation is tendered by petitioner regarding mode of payment of difference of huge amount of Rs. 10 Lakhs, which raises presumption of illicit income (ii) Land at Vagodiya, Vadodara for which also no explanation tendered regarding payment of consideration against purchased of said property. Taking 1/3rd payment made by

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petitioner it comes to around Rs. 37,56,200.00 (c) Plot No.39, Kunj Co. Housing Society for which also no explanation tendered with regard to payment of cash amount of Rs. 1,90,18,300/-.

4.7. As per the case of the prosecution, there are other 9 registered sale deeds details being recovered by the I.O. related to land transactions in name of wife of the petitioner, in respect of lands situated at Savli, during check period. The total consideration amount as mentioned in sale deeds goes around Rs. 67 lacs. However, the actual worth of the said lands is beyond the consideration amount as mentioned in sale deeds.

4.8. In light of the factual details collected by the Investigating Officer during the course of investigation carried out so far and considering the overall facts and circumstances of the case, the custodial interrogation of the petitioner herein is necessary. Furthermore, there are all likelihood that there may be other properties which has yet not surfaced in the investigation so far done. Considering the nature of gravity of accusation in the present case, there is a specific role attributed against the present petitioner in the F.I.R. about involving in corrupt practice and having disproportionate assets. The record reveals the involvement the present petitioner in past in other similar offences. The petitioner herein is having native place at M.P. and there are likelihood of petitioner fleeing away from investigation inasmuch as the petitioner has evaded arrest by not co-operating in investigation till date, since registration of F.I.R.

4.9. Further, WWW.LIVELAW.IN considering the designation of the petitioner, there are all likelihood of petitioner having misuse his official position by involving himself in purchase of immovable property. The importance of custodial interrogation in such nature of accusation becomes more necessary for verifying the actual nature of transaction as well as to unearth other transactions which may lead to disclose of relevant material, to bring home the charge.

4.10. Considering the overall facts and circumstances of the case, this Court is of the opinion that there is a strong prima facie case against the petitioner and considering the gravity of the offence, this Court is not inclined to release the petitioner on anticipatory bail.

4.11. Furthermore, it cannot be gainsaid that the corruption has become a social menace and is very much rampant nowadays. It is like a termite or a poisonous snake which has penetrated deeply into our systems. It is often quoted that the Public servants are like fish in the water, none can say when and how a fish drank the water. The Constitution Bench of the Supreme Court in case of Dr.Subrahmanian Swamy Vs. Director, CBI and Another , reported, in (2014) 8 SCC 682 taking very serious note on the level of corruption prevailing in the country and the objects of enacting the Prevention of Corruption Act, had observed as under:

“71. Corruption is an enemy of nation and tracking down corrupt public servant, howsoever high he may be, and punishing such person is a necessary mandate under the PC Act, 1988. The status or position of public servant does not

qualify such public servant from exemption from equal treatment. The decision making power does not segregate corrupt officers into two classes as they are common crime doers and have to be tracked down by the same process of inquiry and investigation.

72. xxx

73. *The PC Act, 1988 is a special statute and its preamble shows that it has been enacted to consolidate and amend the law relating to the prevention of corruption and for the matters connected therewith. It is intended to make the corruption laws more effective by widening their coverage and by strengthening the provisions. It came to be enacted because Prevention of Corruption Act, 1947 as amended from time to time was inadequate to deal with the offences of corruption effectively. The new Act now seeks to provide for speedy trial of offences punishable under the Act in public interest as the legislature had become aware of corruption amongst the public servants.*

74. *Corruption corrodes the moral fabric of the society and corruption by public servants not only leads to corrosion of the moral fabric of the society but also harmful to the national economy and national interest, as the persons occupying high posts in the Government by misusing their power due to corruption can cause considerable damage to the national economy, national interest and image of the country[75].*

75. xxx

76. xxx

77. *This Court in Shobha Suresh Jumani[76], took judicial notice of the fact that because of the mad race of becoming rich and acquiring properties overnight or because of the ostentatious or vulgar show of wealth by a few or because of change of environment in the society by adoption of materialistic approach, there is cancerous growth of corruption which has affected the moral standards of the people and all forms of governmental administration.*

78. *The PC Act, 1988 enacts the legislative policy to meet corruption cases with a very strong hand. All public servants are warned through such a legislative measure that corrupt public servants have to face very serious consequences.[77]*

79. The two Judge Bench of this Court observed in Sanjiv Kumar[78] that the case before them had brought to the fore the rampant corruption in the corridors of politics and bureaucracy.

80. In a comparatively recent decision of this Court in Subramanian Swamy⁹, this court was concerned with the question whether a complaint can be filed by a citizen for prosecuting the public servant for an offence under the PC Act, 1988 and whether the authority competent to sanction prosecution of a public servant for offences under that Act is required to take appropriate decision within the time specified in Clause (I)(15) of the directions contained in paragraph 58 of the judgment of this Court in Vineet Narain¹ and the guidelines issued by the Central Government, Department of Personnel and Training and the Central Vigilance Commission. In the supplementing judgment, A.K. Ganguly, J. while concurring with the main judgment delivered by G.S. Singhvi, J. observed:

“Today, corruption in our country not only poses a grave danger to the concept of constitutional governance, it also threatens the very foundation of the Indian democracy and the Rule of Law. The magnitude of corruption in our public life is incompatible with the concept of a socialist secular democratic republic. It cannot be disputed that where corruption begins all rights end. Corruption devalues human rights, chokes development and undermines justice, liberty, equality, fraternity which are the core values in our Preambular vision.

Therefore, the duty of the court is that any anti-corruption law has to be interpreted and worked out in such a fashion as to strengthen the fight against corruption.....” Dealing with Section 19 of the PC Act, 1988 which bars a court from taking cognizance of the cases of corruption against a public servant under Sections 7, 10, 11, 13 and 15 of the PC Act, 1988, unless the Central or the State Government, as the case may be, has accorded sanction observed that this provision virtually imposes fetters on private citizens and also on prosecutors from approaching court against corrupt public servants. Public servants are treated as a special class of persons enjoying the said protection so that they can perform their duties without fear and favour and without threats of malicious prosecution but the protection against malicious prosecution which is extended in public interest cannot become a shield to protect corrupt officials.

81. In *Balakrishna Dattatrya Kumbhar*¹¹, this Court observed that corruption was not only a punishable offence but also, “undermines human rights, indirectly violating them, and systematic corruption, is a human rights’ violation in itself, as it leads to systematic economic crimes”.

82. In *R.A. Mehta*¹⁰, the two Judge Bench of this Court made the following observations about corruption in the society:

“Corruption in a society is required to be detected and eradicated at the earliest as it shakes “the socio-economic-political system in an otherwise healthy, wealthy, effective and vibrating society”. Liberty cannot last long unless the State is able to eradicate corruption from public life. Corruption is a bigger threat than external threat to the civil society as it corrodes the vitals of our polity and society. Corruption is instrumental in not proper implementation and enforcement of policies adopted by the Government. Thus, it is not merely a fringe issue but a subject matter of grave concern and requires to be decisively dealt with.”

5. In view of the above stated legal position and considering the gravity of the offence punishable under the PC Act enacted to meet with the menace of corruption with a very strong hand, granting bail to the present petitioner, who is prima facie involved in the alleged offences under the P.C. Act, it is not desirable to release the petitioner on anticipatory bail. In that view of the matter, the present petition is dismissed. Rule is discharged.

(RAJENDRA M. SAREEN, J)

R.H. PARMAR