

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Third day of May Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice P. RAJAMANICKAM

CRIMINAL ORIGINAL PETITION No.13516 of 2018

SIVABALAN

[PETITIONER / ACCUSED]

Vs

STATE REP.BY

[RESPONDENT]

THE INSPECTOR OF POLICE

PEW MAYILADUTHURAI POLICE STATION,

NAGAPATTINAM DISTRICT

CR.NO.530 OF 2018

For Petitioner : M/S.D.LAKSHMIPATHY Advocate

For Respondent : M/S.M.PRABHAVATHI, ADDITIONAL PUBLIC PROSECUTOR

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 4(1) (aaa) r/w 4(1-A) of Tamil Nadu Prohibition Act in Crime No.530 of 2018, seeks anticipatory bail.

2. The case of the prosecution is that when the respondent was in routine check up, they found that the Accused 1 and 2 were illegally transported 43 boxes of 180ml bottles of Brandy and 140 liters of illicit arrack without valid receipt and based on the confession given by co-accused, the petitioner herein has been arrayed as an Accused No.4.

3.The learned counsel for the petitioner submitted that based on the confession given by the co-accused, the petitioner has been arrayed as Accused No.4 and the petitioner has not committed any offence and he has been falsely implicated in this case. He further submitted that already Accused Nos.1, 2, 5 and 7 were arrested and released on bail. He further submitted that in so far as the third accused is concerned, this Court has already granted anticipatory bail in CrI OP No.13403 of 2018. Hence, he prayed for grant of anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor appearing for the respondent submitted that no previous case has been registered against the petitioner herein and further submitted that already Accused Nos.1,2,5 and 7 were arrested and released on bail and Accused No.3 was also granted Anticipatory Bail. The learned

Additional Public Prosecutor further submitted that Accused No.6 is absconding and hence, she strongly opposes for grant of anticipatory bail.

5. Taking into consideration the fact that the petitioner herein was arrayed as Accused No.4, based on the confession given by the co-accused and also the fact that the Accused Nos.1,2,5 and 7 were already arrested and released on bail and anticipatory bail was also granted to Accused No.3 in Crl.OP No.13403 of 2018, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6. 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 of receipt of a copy of this order, before the learned Judicial Magistrate 2, Mayiladuthurai, on condition that the petitioner shall execute a 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(i) if the petitioner fails to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

(ii) the petitioner shall report before the respondent police daily at 10.30 a.m for a period of three weeks and thereafter, as and when required before the respondent police for interrogation.

(iii) the petitioner shall not tamper with evidence or witness either during investigation or trial.

(iv) the petitioner shall not abscond either during investigation or trial.

(v) 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]**.

(vi) If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-

23/05/2018

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NO.2, MAYILADUTHURAI.

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM DISTRICT.
[FOR INFORMATION]

3 THE INSPECTOR OF POLICE
PEW MAYILADUTHURAI POLICE STATION,
NAGAPATTINAM DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.D.LAKSHMIPATHY Advocate on payment of necessary
charges in SR.NO. 9361

CRL OP.13516/2018

Date :23/05/2018

MLT-24/05/2018