

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty First day of December Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice R. MAHADEVAN

and

The Hon`ble Mr Justice P.D.AUDIKESSAVALU

CRIMINAL ORIGINAL PETITION No.23623 of 2018

RANVIR R SHAH

[PETITIONER / ACCUSED]

Vs

STATE REP. BY

[RESPONDENT]

DEPUTY SUPERINTENDENT OF POLICE,

IDOL WING CID,

CHENNAI - 600 032.

CRIME NO.2 OF 2016

For Petitioner : MR.ASHOKUMAR SENIOR COUNSEL FOR
M/S.K.THANGARASU Advocate

For Respondent : MR.C.IYYAPPARAJ, ADDITIONAL PUBLIC PROSECUTOR

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

ORDER : The Court Made the following order :-

Apprehending arrest at the hands of the respondent police in connection with the case in Cr.No.2 of 2016 registered for the offences punishable under Sections 457(2), 380(2), 411(2) and 120-B IPC and Section 25(1) of the Antiquities and Art Treasures Act, 1972, (for short, "the Act"), the petitioner has come up with this petition seeking anticipatory bail.

2.It is the case of the prosecution that one Janarthanan, Inspector of the respondent Police, lodged a complaint on 30.05.2016 alleging that on a secret information through telephone, he made a search in a house at No.6/25, Murray's Gate Road, Alwarpet, Chennai belonging to Deenadhayalan (A1) and seized Garudalwar statue and other idols, which were said to be parcelled, in order to be sent to Bombay and arrested three workers Mansingh (A5), Kumar (A6) and Rajamani (A7). It is the further case of the prosecution that based on the confession statement of A1, the respondent police seized 157 metal idols, 416 stone idols, 74 wood idols, 211 paintings and 1 ivory idol from A1's house. Thereafter, the respondent police made a search in a house at No.21, South Madaveethi, Srinagar Colony, Saidapet, Chennai belonging to Ranvir Shah (A14) and his two other guest houses situated at Koolangalcherry, Sriperumbudur Taluk, Rancheepuram District and Mogalvadi Village, Maduranthagam Taluk,

Kancheepuram District and seized 209 stone idols and 13 stone pillars in toto from his house and furthermore, 6 wooden vehicles, which are used to carry idols, were also seized in his office, which is situated at Race Course Road, Guindy, Chennai. It is also the case of the prosecution that on a further secret information, the respondent police made a search of a guest house situated at Kasthuri Estate, Poes Garden, Chennai-86 belonging to Kiran Velagapudi (A15) and seized 23 stone idols, which were concealed by her with the help of her employees, under the ground. Thus, the case was registered against 16 accused and the seized idols were said to have been stolen from various temples of Tamil Nadu.

3.The learned Senior Counsel appearing for the petitioner submitted that the petitioner is a reputed businessman dealing with exports of garments and vegetables and he is an ardent collector and admirer of antiques. The learned Senior Counsel further submitted that the idols and antiques seized by the respondent police were purchased by the petitioner from the known sources. According to the learned Senior Counsel, out of 224 items, 116 items have been duly registered; in respect of 40 items, registration is pending with the authority concerned; 54 other items do not fall under the category of antiquities, for which, no registration is required. In support of the said submission, the learned Senior Counsel produced a voluminous typed set containing registration certificates in respect of 91 items. Even otherwise, placing reliance on the decision of the Karnataka High Court in **S.R.Kiran v. Central Bureau of Investigation, Bangalore [1999 Cr1.LJ 3079]**, the learned Senior Counsel submitted that the petitioner had not misused the articles for any purpose and the only offence, he committed was in not making application for registration as required under the Act. Hence, the learned Senior Counsel sought to consider this petition, in favour of the petitioner.

4.On the other hand, the learned Additional Public Prosecutor submitted that out of 230 items, only 91 items are having valid documents; in respect of the remaining items, there is no proof for validity and authenticity of the same; further, the documents produced by the petitioner are not genuine; and the report regarding genuineness of the same is awaited from the Archaeological Department. The learned Additional Public Prosecutor further submitted that the petitioner has committed the offence related to theft of idols and antiquities belonging to various temples of Tamil Nadu, which is indeed serious in nature and the whereabouts of the petitioner is also not known to the prosecution and hence, the appearance of the petitioner for investigation is very much essential. Thus, the learned Additional Public Prosecutor submitted that in the event of the petitioner granted anticipatory bail, stringent conditions may be imposed on him.

5.Stoutly denying the submissions so made by the learned Additional Public Prosecutor, the learned Senior Counsel for the petitioner, in a riposte, submitted that the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. The learned Senior Counsel further

submitted that as directed by this Court, the petitioner has surrendered his passport to the Idol Wing and he is always ready and willing to co-operate with the respondent police for investigation.

6. Heard both sides and perused the records.

7. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side and further taking note of the facts that the petitioner is able to produce registration certificate in respect of some of the items and report is awaited from the Archaeological Department, in respect of some of the remaining items; he has surrendered his passport, in order to reveal his availability in the city; this petition is pending for quite sometime; and the Idol Wing is not in a position to place any concrete material with regard to the whereabouts of the petitioner and they await report from various sources, this Court is inclined to grant anticipatory bail to the petitioner, of-course, with stringent conditions.

8. Accordingly, this Criminal Original Petition is ordered, by enlarging the petitioner on bail, in the event of his arrest by the respondent police or surrender on his appearance within a period of two weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate concerned, on the following conditions:-

(i) The petitioner shall execute a bond for Rs.1,00,000/- (Rupees One Lakh Only) with two sureties each for a like sum to the satisfaction of the learned Additional Chief Judicial Magistrate (FAC), Kumbakonam; and

(ii) The petitioner shall appear and report before the Idol Wing officials, Thiruchirapalli, daily at 10.30 am until further orders. However, it is made clear that if the respondent police are able to collect any incriminating material against the petitioner, it is open to them to move appropriate petition.

-sd/-

21/12/2018

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 ADDITIONAL CHIEF
JUDICIAL MAGISTRATE, KUMBAKKONAM [FAC],
KUMBAKKONAM.

2 THE CHIEF JUDICIAL MAGISTRATE
KUMBAKKONAM [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE DEPUTY SUPERINTENDENT OF POLICE,
IDOL WING CID,
CHENNAI - 600 032.

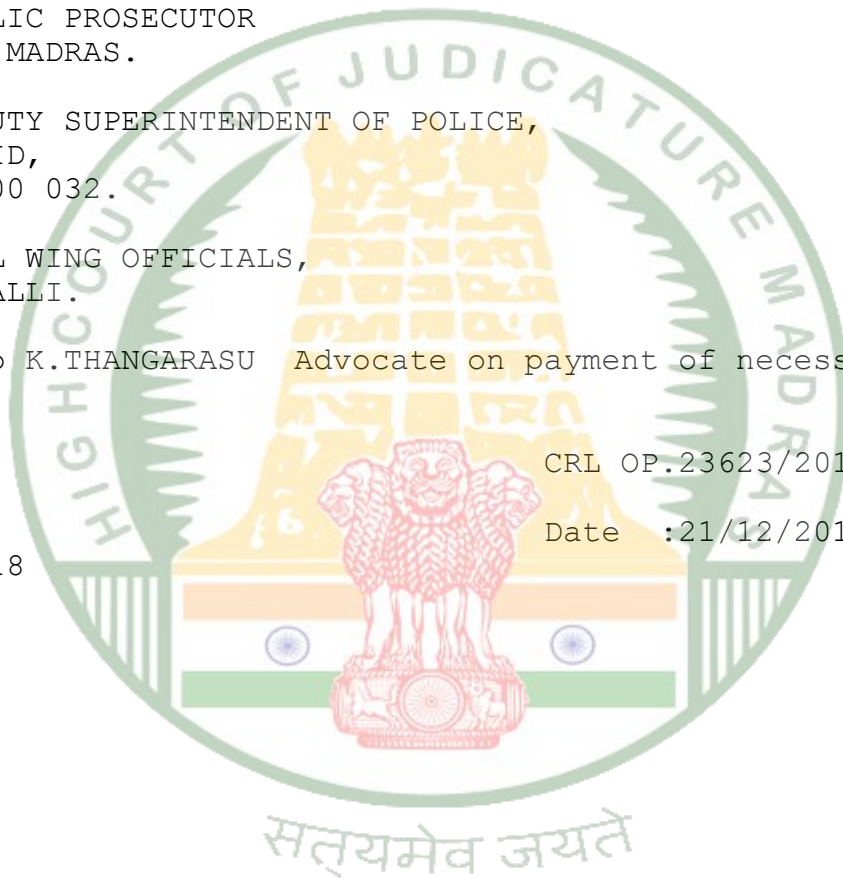
5 THE IDOL WING OFFICIALS,
THIRUCHIRAPALLI.

+1CC to K.THANGARASU Advocate on payment of necessary charges
SR NO.24878

CRL OP.23623/2018

Date :21/12/2018

MK:24/12/2018



WEB COPY