

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Fifteenth day of February Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice G.K. ILANTHIRAIYAN

CRIMINAL ORIGINAL PETITION No.3140 of 2019

K.JAGAN @ JAGAN RAJ

[PETITIONER / ACCUSED]

Vs

STATE THROUGH
THE INSPECTOR OF POLICE,
MOHANUR POLICE STATION,
NAMAKKAL.
CR.NO.407 OF 2018.

[RESPONDENT]

For Petitioner : M/S.P.MUTHAMIZH SELVAKUMAR Advocate

For Respondent : MR. M.MOHAMED RIYAZ, 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 for the alleged offences under Sections 273, 328 IPC read with Sections 7 & 20(1) of the Cigarettes and other Tobacco Products Act, 2003 and Sections 52 & 59 Food and Safety Standards Act 2003 in Crime No.407 of 2018 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that bundles of prohibited tobacco materials found in the petitioner's place during the course of police search worth about Rs.7,20,000/-. Hence, the complaint.

3. The learned counsel for the petitioner submitted that the petitioner is an innocent person and no way connected with the alleged offence. He would further submit that on the confession statement given by the 3rd accused, the petitioner has been falsely implicated in this case. On instructions, he would further submit that the petitioner is ready to deposit an amount of Rs.2,00,000/- to the Adyar Cancer Institute (WIA), East Canal Bank Road, Adyar, Chennai and prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the A3 is the owner of the goods and A1 & A3 are brothers. He would further submit that during the course of police search 1276 kgs of

banned tobacco products found in the petitioner's place worth about Rs.7,20,000/-. He would further submit that one similar previous case is pending against the petitioner. Hence, he vehemently opposed for grant of anticipatory bail to the petitioner.

5.Taking into consideration the facts of the case and the submissions made by the learned counsels and also taking note of the fact that the petitioner has come forward to deposit an amount of Rs.2,00,000/- to the Adyar Cancer Institute (WIA), East Canal Bank Road, Adyar, Chennai, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions:

6.Accordingly, the petitioner shall deposit a sum of Rs.2,00,000/- (Rupees two lakhs only) by way of Demand Draft to the Cancer Institute (WIA), East Canal Bank Road, Adyar, Chennai and on such deposit 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 on which the order copy made ready, before the learned Judicial Magistrate No.II, Namakkal 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 the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall deposit a sum of Rs.2,00,000/- (Rupees two lakhs only) by way of Demand Draft to the Cancer Institute (WIA), East Canal Bank Road, Adyar, Chennai.

[c] the petitioner shall report before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter as and when required for interrogation.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner shall not abscond either during investigation or trial.

[f] 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]**.

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

-sd/-
15/02/2019

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.II, NAMAKKAL.

2 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
MOHANUR POLICE STATION,
NAMAKKAL.

5 THE CANCER INSTITUTE (WIA)
EAST CANAL BANK ROAD,
ADYAR, CHENNAI.

+1 CC to M/S.P.MUTHAMIZH SELVAKUMAR Advocate on payment of
necessary charges SR.NO.3375

CRL OP.3140/2019

Date :15/02/2019

TA-20/02/2019

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