

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Sixth day of July Two Thousand Nineteen

PRESENT

The Hon`ble Mrs Justice V.BHAVANI SUBBAROYAN

CRIMINAL ORIGINAL PETITION No.14400 of 2019

CHELLAPPA @ MOHAMED HUSSAIN

[PETITIONER / ACCUSED]

Vs

[RESPONDENT]

STATE REP. BY
THE INSPECTOR OF POLICE,
KILVELUR POLICE STATION,
NAGAPATTINAM DISTRICT.
CR.NO. 214/2019.

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

For Respondent : M/S.G.HARIHARA ARUN SOMA SANKAR Govt. Advocate
(Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioner / A.4 who apprehends arrest at the hands of the respondent police for the offences punishable under Section 5 r/w 7 (3) Lottery Regulation Act, 1997, seeks anticipatory bail.

2. Earlier, when the matter came up on 16.05.2019 seeking anticipatory bail, this Court was not inclined to grant anticipatory bail for the reason that investigation was pending. Further, based on the confession of the co-accused/A.1, the petitioner has been implicated as one of the accused in the F.I.R., for the alleged sale of lottery ticket business, which is banned by the State of Tamilnadu.

3. The learned counsel for the petitioner would submit that there is a change in circumstances and the learned Judicial Magistrate No.I, Nagapattinam has granted bail to the co-accused/A.3 in Crl.M.P.No.3771 of 2019 on 14.05.2019 by imposing following conditions:

'5.(i) The petitioner shall execute a bond worth Rs.10,000/- and produce two sureties for the like sum;

(ii) The petitioner shall report before before this Respondent Police station daily at 10.00 a.m for a period of 15 days.

(iii) The petitioner shall not in any way try to influence or persuade the witnesses in this case; and

(iv) The petitioner shall report before the Court as and when he is directed to do so.'

He would further submit that only on the basis of statement by the co-accused, the petitioner has been implicated and he has nothing to do with the sale of lottery ticket business, which is banned in the State of Tamilnadu. He would also submit that the petitioner would abide by the conditions imposed by this Court and he will not tamper the prosecution witness.

4. The learned Government Advocate appearing for the respondent would submit that investigation is almost completed.

5. Considering the facts and circumstances of the case and taking note of the fact that the co-accused has been released on bail and coupled with the fact that the investigation is almost completed, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions. 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 on which the order copy made ready, before the learned Judicial Magistrate No.1, Nagapattinam, 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 report before the respondent police daily at 10.30 a.m., for a period of 30 days and thereafter, as and when required for interrogation.

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

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

[e] 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]**.

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

-sd/-
26/07/2019

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.1, NAGAPATTINAM.

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KILVELUR POLICE STATION,
NAGAPATTINAM DISTRICT.

+1 CC to M/S.P.MUTHAMIZH SELVAKUMAR Advocate on payment of necessary charges SR.NO.15547

CRL OP.14400/2019

Date :26/07/2019

TA-05/08/2019

WEB COPY