

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Ninth day of January Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice R. MAHADEVAN

and

The Hon`ble Mr Justice P.D.AUDIKESSAVALU

CRIMINAL ORIGINAL PETITION No.29750 of 2018

H.MOHAMED KASHEEB

[PETITIONER / ACCUSED]

Vs

1 STATE REP. BY [RESPONDENT]
THE INSPECTOR OF POLICE,
IDOL WING, IG SPECIAL CAMP OFFICE,
TRICHY,
CRIME NO.114 OF 2005.

2 THE INSPECTOR GENERAL OF POLICE
IDOL WING,
CID, IG SPECIAL CAMP OFFICE,
TRICHY.

For Petitioner : M/S.L.INFANT DINESH Advocate

For Respondent : MR. C.IYYAPPARAJ, ADDL. 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 Crime No.114 of 2005 for the offences punishable under Sections 457(2), 380(2), 411(2), 414 r/w 120-B IPC and Section 25(1) of the Antiquities and Art Treasures Act, the petitioner has filed this Criminal Original Petition seeking anticipatory bail.

2.It is the case of the prosecution that the petitioner assisted the then Idol Wing CID Inspector Jeevanantham to conduct a wrongful investigation in Crime No.114 of 2005 relating to theft of idols belonging to Arulmighu Narupoonathaswamy Temple, Pazhavur and after obtaining gratification from one Deenadayalan of Chennai Aparna Art Gallery, they knowingly and intentionally suppressed and omitted the fact of illegal export of 4 idols, out of 13 stolen idols, from India to the Art of the Past Gallery owned by the extradited offender Subash

Chandra Kapoor at New York.

3.The learned counsel for the petitioner submitted that during the relevant point of time, the petitioner worked as Deputy Superintendent of Police of the Idol Wing and his nature of work was only of supervisory in nature. The learned counsel further submitted that the petitioner has nothing to do with the alleged offence and he has been falsely implicated in this case. The learned counsel also submitted that the petitioner was diagnosed to be a carcinoma lung patient, for which, he is undergoing chemotherapy periodically and he underwent a resection surgery in abdominal area on 10.08.2018. In support of the said submission, he produced the medical records of the petitioner in the form of additional typed set. Thus, according to the learned counsel, the petitioner may be considered for grant of anticipatory bail.

4.According to the learned Additional Public Prosecutor appearing for the respondents, based on the confession statement of Deenadayalan of Chennai Aparna Art Gallery, the petitioner was issued with summons on 23.09.2018, directing him to appear before the Idol Wing Officer, Trichy for enquiry, but he did not turn up. However, the learned Additional Public Prosecutor fairly conceded the health condition of the petitioner, as pleaded by the learned counsel for the petitioner.

5.Heard both sides and perused the documents placed before this Court, more particularly, the medical records of the petitioner.

6.Considering the facts and circumstances of the case and also having regard to the submissions made by the learned counsel on either side and further taking note of the health condition of the petitioner, who is said to be suffering from lung cancer, for which, he is undertaking chemotherapy periodically, this Court is inclined to grant anticipatory bail to the petitioner.

7.Accordingly, this Criminal Original Petition is ordered by releasing 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, Kumbakonam; and

(ii)The petitioner shall appear and report before the Idol Wing for interrogation, as and when required.

-sd/-
09/01/2019

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 ADDITIONAL CHIEF JUDICIAL
MAGISTRATGE, KUMBAKONAM

2 THE CHIEF JUDICIAL MAGISTRATE
KUMBAKONNAM[FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT

4 THE INSPECTOR OF POLICE,
IDOL WING, IG SPECIAL CAMP OFFICE,
TRICHY,

5 THE INSPECTOR GENERAL OF POLICE,
IDOL WING, CID,
IG SPECIAL CAMP OFFICE,
TRICHY.

+1 CC to M/S.L.INFANT DINESH Advocate on payment of necessary charges SR.NO. 782

CRL OP.29750/2018

Date :09/01/2019

RD 18/01/2019