

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.05.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

CrI.O.P. No.7953 of 2020

Prakash (M/36 years),
S/o.Krishnan,
No.11/27, Kendaiyur,
Mettupalayam,
Coimbatore District.

..Petitioner/Accused - 2

Vs.

State by The Inspector of Police,
Karamadai Police Station,
Coimbatore District.

..Respondent/Complainant

[Crime No.436 of 2020]

Prayer: Criminal Original Petition filed for anticipatory bail under Section 438 of Criminal Procedure Code.

For Petitioner : Mr.S.N.Arunkumar
for Mr.C.Ramkumar
For Respondent : Mr.M.Jothikumar
Additional Public Prosecutor

ORDER

The petitioner, who apprehends arrest at the hands of the respondent

police for alleged offence punishable under Sections 4(1)(a), 4(1)(i) and 4(1-A) of Tamil Nadu Prohibition Act in Crime No.436 of 2020, seeks anticipatory bail.

2.The case of the prosecution is that on 05.05.2020, when the defacto complainant and other Police party were checking the vehicles, intercepted a two wheeler bearing Registration No.TN 40 T 1305 Honda Dio. On seeing the Police party, the petitioner and A1 tried to escape from the Police. The defacto complainant and Police party caught hold of A1. The petitioner escaped with the plastic can. On search, it was found that A1 was in possession of one litre of illicit arrack with poisonous substance and confessed that petitioner ran away with three litres of illicit arrack with poisonous substance. The defacto complainant and other Police party arrested A1 and seized the two wheeler with illicit arrack. On complaint, a case has been registered under Sections 4(1)(a), 4(1)(i) and 4(1-A) of Tamil Nadu Prohibition Act.

3.The learned counsel appearing for the petitioner submitted that the

petitioner is a driver and he is no way connected with the offence. He is ready to cooperate with the investigation. A1 was arrested and enlarged on bail and prayed for granting anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor appearing for the respondent Police submitted that the petitioner and A1 were selling illicit arrack with poisonous substance. The petitioner on seeing the Police party, ran away with three litres of illicit arrack. The learned Additional Public Prosecutor appearing for the respondent Police further submitted that if the petitioner is granted anticipatory bail, he will indulge in committing the same offence and hence, he prayed for dismissal of the petition.

5.Heard the learned counsel appearing for the petitioner as well as the learned Additional Public Prosecutor appearing for the respondent Police and perused the materials available on record.

6.Taking into consideration the nature of allegations made against the petitioner, A1 was arrested and enlarged on bail and the submissions of the

learned counsel on either side, 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 his arrest or on his appearance within 15 days from the date of receipt of a copy of this order before the Court of the Judicial Magistrate, Mettupalayam, 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 concerned Judicial Magistrate, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

(i) The petitioner and the sureties shall affix their Photographs and Left Thumb Impressions in the surety bonds and the said Magistrate may obtain copies of their Aadhar Cards or Bank Pass Books to ensure their identities.

(ii) The petitioner shall report before the respondent Police daily at 10.30 a.m, until further orders.

(iii) The petitioner shall not abscond either during investigation or trial.

The petitioner shall not tamper with evidence or witness either during investigation or trial.

(iv) On breach of any of the aforesaid conditions, the concerned 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, reported in **2005 AIR SCW 5560 (P.K. Shaji vs. State of Kerala)** and

(v) If the petitioner thereafter absconds, a fresh First Information Report shall be registered, under Section 229A of I.P.C.

7. Accordingly, this Criminal Original Petition is allowed.

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Index : Yes / No

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V.M.VELUMANI, J.,

krk/gsa/kj

To

1.The Inspector of Police,
Karamadai Police Station,
Coimbatore District.

2.The Public Prosecutor,
High Court, Madras.



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