

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2020

CORAM:

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.8145 of 2020

Kanagaraj

... Petitioner

Vs.

State rep by

The Sub-Inspector of Police,
Mathur Police Station,
Krishnagiri District.
(Crime No.318 of 2020)

.... Respondent

Prayer : Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on bail in the event of arrest in Crime No.318 of 2020 on the file of the respondent police.

For Petitioner : Mr.P.M.Duraisamy

For Respondent : Mr.K.Prabakar
Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

At the instance of the learned counsel for the petitioner, today, the matter is listed under the caption "for being mentioned".

The learned counsel appearing for the petitioner submitted that some typographical mistakes have crept into the order passed in Crl.O.P.No.8145 of 2020 dated 05.06.2020 and which may kindly be rectified.

2. In view of the above submission so made by the learned counsel for the petitioner, Registry is directed to issue a fresh order copy as follows:

"The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 4(1)(e) read with 4 (1-A) of Tamil Nadu Prohibition Act in Crime No.318 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner was found in possession of 2 litres of Toddy. Hence, the complaint.

3. The learned counsel appearing for the petitioner 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 counsel further submitted that there is no previous case pending against the petitioner and that without prejudice to his defence, the petitioner is prepared to deposit some considerable amount to any charitable organization. Hence, he seeks for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the Inspector of Police, on secret information, conducted raid and he found that the petitioner was illegally found in possession of 2 litres toddy. He would further submit that there is no previous case as against the petitioner.

5. In view of the fact that there is no previous case against the petitioner and in order to curb the boot legging activities, this Court is of the opinion that the petitioner shall deposit a sum of Rs.10,000/- (Rupees Ten Thousand Only) to the Cancer Institute (WIA), (Regional Cancer Centre), Adyar, Chennai - 600020, bearing A/c.No.149710011005477, Andhra Bank, Madhya Kailash Branch, without prejudice to his rights and contentions before the trial Court.

6. Merely, because the petitioner deposits the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

7. Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions. Accordingly, the petitioner is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand Only) to the Cancer Institute (WIA), (Regional Cancer Centre), Adyar, Chennai - 600020, bearing A/c.No.149710011005477, Andhra Bank, Madhya Kailash Branch, 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 is made ready, before the District Munsif cum Judicial Magistrate Court, Pochampalli, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with one surety 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 surety 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 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 abscond, a fresh FIR can be registered under Section 229A IPC.

-sd/-

01/07/2020

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 DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
POCHAMPALLI.

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 SUB INSPECTOR OF POLICE,
MATHUR OPOLICE STATION,
KRISHNAGIRI DISTRICT.

5 THE CANCER INSTITUTE (WIA),
(REGIONAL CANCER CENTRE),
ADYAR, CHENNAI 600 020
BEARING A/C NO.149710011005477,
ANDHRA BANK, MADHYA KAILASH BRANCH,

CC to M/S P.M.DURAI SWAMY Advocate on payment of necessary charges

CRL OP.8145/2020

Date :01/07/2020

RVR 27/08/2020