

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.8180 of 2020

Senthilnathan

... Petitioner

Vs.

State represented by
The Inspector of Police,
Thiruvallur Police Station,
Vellore District.

... Respondent

PRAYER: Criminal Original Petitioner has been filed under Section 438 Cr.P.C to enlarge the petitioner on bail in the event of arrest pending investigation in Crime No.141 of 2020 on the file of the respondent police station.

For Petitioner : M/s.A.M.Rahamath Ali

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

The petitioner apprehends arrest at the hands of the respondent police for the alleged offense punishable under Section 7(5) and 20(2) of Cigarettes and other Tobacco Products Act 2003 and Section 328 IPC in Crime No.141 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner along with other accused persons had transported the banned Gutka to the tune of 1837 kgs.

3. The learned counsel for the petitioner submitted that there is absolutely no basis to rope the petitioner as an accused in this case. The learned counsel further submitted that admittedly vehicles were intercepted by the police and the accused persons had run away from the spot. The learned counsel further submitted that it is not known as to how the police identified this petitioner as an accused. According to the learned counsel for the petitioner, this petitioner has been made as an accused only because there is one previous case pending against him.

4. Mr.Mohammed Riyaz, learned Additional Public Prosecutor appearing on behalf of the respondent police vehemently opposed this petition. The learned counsel submitted that the quantity involved in the present case is very huge to the tune of 1837 kgs. The learned counsel further submitted that the entire banned substances has been seized in three vehicles. The petitioner was also present in the vehicle when it was intercepted and he had escaped from the vehicle. Therefore, the petitioner is identified by the police. The learned counsel further submitted that the petitioner is involved in one previous case of similar nature.

5. This Court has carefully considered the submissions on either side and perused the materials available on record.

6. It is seen that the entire banned substance along with the vehicles have already been seized by the respondent police. A serious dispute with regard to the identity of accused person has been raised by the learned counsel for the petitioner and the investigation is still pending.

7. This Court is of the opinion that the petitioner can be directed to deposit a sum of Rs.50,000/- (Rupees Fifty thousand only) as non-refundable deposit to the credit of the Madras Cancer Institute, without prejudice to his rights and contentions before the trial Court.

8. Taking into consideration the facts and circumstances, 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 their appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate, Katpadi, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each with two sureties each for a like sum to the satisfaction of the respondent 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.50,000/- (Rupees Fifty Thousand only) as non refundable deposit to the credit of the Madras Cancer Institute, Adayar, Chennai.

[c] the petitioner is directed to appear before the respondent police on every Monday and Friday at 10:30 a.m. until further orders.

[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 persons thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

-sd/-

10/06/2020

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 JUDICIAL MAGISTRATE,
KATPADI.

2 THE PRINCIPAL SESSIONS JUDGE
VELLORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
THIRUVALAM POLICE STATION,
VELLORE DISTRICT.

5 THE MADRAS CANCER INSTITUTE
ADYAR, CHENNAI.

CC to M/S.A.M.RAHAMATH ALI Advocate on payment of necessary charges

CRL OP.8180/2020

Date :10/06/2020