

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.8364 of 2020

1. Gothandaraman
2. Sivabalan

Petitioners

vs.

The Inspector of Police,
Prohibition Enforcement Wing,
Sirkali,
Nagapattinam District.
(Crime No.152 of 2020)

Respondent

Prayer: Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure, to enlarge the petitioners on bail in the event of their arrest in respect of Crime.No.152 of 2020 on the file of the Inspector of Police, Prohibition Enforcement Wing, Sirkali, Nagapattinam District pending investigation.

For Petitioner : Mr.O.R.Maheswaran

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

ORDER

The petitioners, who was arrested and remanded to judicial custody for an offence under Sections 4(1)(aaa) and 4(1-A) of Tamil Nadu Prohibition Act in Crime No.152 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that while conducting prohibition raid by the respondent police, the petitioners were in possession of 480 brandy bottles (each containing 180 ML) and three litres of ID Arrack and it was seized by the respondent police.

3. The learned counsel for the petitioner submitted that the 2nd petitioner was arrested and later released on bail and therefore, the present petition is confined only to the 1st petitioner.

4. The learned Additional Public Prosecutor submitted that there are no previous cases against the 1st petitioner.

5. This Court is of the opinion that the petitioners can be directed to deposit a sum of Rs.750/- (Rupees Seven Hundred and Fifty only) as non-refundable deposit to the credit of the Tamil Nadu Advocate Clerks Association, High Court, Madras, without prejudice to their rights and contentions before the trial Court. Merely, because the petitioner has deposited the said amount, it would not amount to admission of their guilt. Therefore, it is open to the trial Court to deal with the case independently.

6. Considering the facts and circumstances, this Court is inclined to grant anticipatory bail to this 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, Sirkali, Nagapattinam District on condition that the petitioner shall execute a bond for a sum of Rs.5,000/- (Rupees five 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 deposit a sum of Rs.750/- (Rupees Seven Hundred and Fifty only) directly to the **Tamil Nadu Advocate Clerks Association, Madras High Court, Chennai (Indian Bank, High Court Branch, A/c No.484026006, IFSC Code:IDIB000M157).**

[c] the petitioner shall report before the respondent police, as and when required for interrogation.

[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.

N. ANAND VENKATESH, J.

ssr

[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.

10.06.2020

Speaking Order/Non-Speaking Order

Index : Yes/No

Internet : Yes/No

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To

1. The Judicial Magistrate, Sirkali, Nagapattinam District.
2. The Inspector of Police,
Prohibition Enforcement Wing,
Sirkali,
Nagapattinam District.
3. The Additional Public Prosecutor,
High Court Madras.