

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2020

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THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.9261 of 2020

1. Benihin
2. Senthilkumar ...Petitioners

Vs.

State Rep. by
The Inspector of Police,
B7, Vellavedu Police Station,
Vellavedu, Thiruvallur District.
(Cr. No.926 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C.,
praying to enlarge the petitioners on bail in the event of their arrest in
Crime No.926 of 2020 on the file of the respondent police.

For Petitioners : Mr.K.Balaji
For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

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ORDER

The petitioners, who apprehend arrest at the hands of the

respondent police for the alleged offences punishable under Sections 4(1)(g), 4(1)(a) r/w 4(1-A) of Tamilnadu Prohibition Act, in Crime No.926 of 2020, on the file of the respondent police, seek anticipatory bail.

2. It is the case of the prosecution that the petitioners were found in possession of 100 litters and 10 litters of ID Arrack, illegally. Hence, a case was registered against the petitioners.

3. The learned counsel appearing for the petitioners would submit that the petitioners are no way connected with the alleged occurrence and they are innocent persons. Further he would submit that based on the confession statement given by the arrested accused, the petitioners have been falsely implicated in this case with an ulterior motive. Hence, he prays to grant anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the quantity of ID Arrack involved is 110

litters. He further submitted that there are 2 previous cases against the first petitioner and no previous case pending against the second petitioner.

5. Considering the submission made by the learned counsel appearing for the petitioners, this Court is of the opinion that the petitioners are directed to deposit a sum of Rs.20,000/- (Rupees Twenty Thousand only) jointly as non refundable deposit to the credit of the **Cancer Institute (WIA), East Canal Bank Road, Adyar, Chennai** without prejudice to their rights and contentions before the trial Court. Merely, because the petitioners have 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. Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions. Accordingly, the petitioners are directed to deposit a sum of Rs.20,000/- (Rupees Twenty Thousand only) jointly as non refundable

deposit to the credit of the **Cancer Institute (WIA), East Canal Bank Road, Adyar, Chennai**, within a period of fifteen days from the date on which the order copy made ready and on such deposit the petitioners are ordered to be released on bail in the event of arrest or on their appearance before the learned Judicial Magistrate-II, Poonmallee, on condition that the petitioners shall execute separate 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 learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners 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 petitioners shall deposit a sum of Rs.20,000/- (Rupees twenty thousand only) jointly to the credit of the **Cancer Institute (WIA), East Canal Bank Road, Adyar, Chennai**. and shall produce the said receipt before the Court below.

[c] the petitioners shall report before the respondent police

daily at 10.30 a.m. for a period of two weeks and thereafter as and when required for interrogation.

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioners 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 petitioners 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 thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

24.06.2020

Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order

To

1. The Judicial Magistrate-II, Poonmallee.
2. The Inspector of Police, B7, Vellavedu Police Station, Vellavedu, Thiruvallur District.
3. The Public Prosecutor, Madras High Court, Chennai.

G.K.ILANTHIRAIYAN, J

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