

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2020

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

Crl.O.P No.9306 of 2020

Raj @ Divyaraj,
S/o.Mariyadoss,
Thiruvengatapuram,
Kottucherry Vadamattam,
Boodhakudi,
Karaikal.

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
P.E.W.Sirkazhi Police Station,
Nagapattinam District.
(Crime No.171 of 2020)

...Respondent

PRAYER: Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure, to enlarge the petitioner on bail in the event of arrest in Crime No.171 of 2020 on the file of the respondent Police.

For Petitioner : Mr.M.Vinoth

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

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Sections 4(1)(aaa) & 4(1-A) of TNP Act in Crime No.171 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. It is the case of the prosecution that the petitioner was found in possession of 110 litres of ID arrack and 2350 pockets of pundy each containing 180 ml., illegally. Hence, a case was registered against the petitioner.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. Hence, he prays to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner was found in possession of 110 litres of ID arrack and 2350 pockets of pundy each containing 180 ml. He further submit that there is no previous case pending against the petitioner. He opposed for grant of anticipatory bail to the petitioner.

5. Considering the submission made by the learned counsel appearing for the petitioner, this Court is of the opinion that the petitioner is directed to deposit a sum of Rs.20,000/- (Rupees Twenty thousand only) as non refundable deposit to the credit of the **Cancer Institute (WIA), East Canal Bank Road, Adyar, Chennai** without prejudice to his rights and contentions before the trial Court. Merely, because the petitioner has deposited 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.

6. 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.20,000/- (Rupees Twenty thousand only) 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 petitioner is ordered to be released on bail in the event of arrest or on his appearance before the learned Judicial Magistrate, Sirkazhi, Nagapattinam District, 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 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.20,000/- (Rupees Twenty thousand only) 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 petitioner 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 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 thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

25.06.2020

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To

1. The Judicial Magistrate,
Sirkazhi, Nagapattinam District.
2. The Inspector of Police,
P.E.W.Sirkazhi Police Station,
Nagapattinam District.
3. The Public Prosecutor,
High Court of Madras,
Madras.



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G.K.ILANTHIRAIYAN, J.

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