

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No. 9451 of 2020

Mohamed Abdul Kader

... Petitioner/Accused 3

Vs.

The State represented by,
The Inspector of Police,
Thittacherrry Police Station,
Nagapattinam District.
(Cr.No.474 of 2020)

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 438 of the Code of Criminal Procedure, to grant an anticipatory bail to the petitioner in the event of their arrest in Crime No.474 of 2020 pending investigation on the file of the respondent police station herein.

For Petitioner : Mr.S.K.Syed Eliyas

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

O R D E R

The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 188, 269, 420, 467, 468 & 472 of IPC, in Crime No.474 of 2020, seeks anticipatory bail.

2 It is the case of the prosecution that the petitioner has used forged e-pass to travel from Nannilam to Thittacherry. Hence, the complaint.

3 The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and the petitioner has falsely implicated in this case. He further submitted that the petitioner is the only brother of Mohamed Kuthubdeen. Hence, he prays to grant anticipatory bail to the petitioner.

4 The learned Additional Public Prosecutor appearing for the respondent submitted that one Mr.V.K.Kumar, VAO of Puthagaram Village has lodged a complaint before the respondent police, stating that on 26.05.2020, at 04.00 a.m., one Mohamed Kuthubeen along with his wife and children travelling from Nannilam to Thittacherry by creating a fake e-pass. On enquiry, Mohamed Kuthubeen submitted that his wife and children were sent from some medical issue and he has created a fake

e-pass by altering old e-pass with the help of his friend viz., Askar and his brother viz., Mohmed Abdul Kader/petitioner. Therefore, the learned counsel has strongly opposed to grant bail to the petitioner.

5 Heard both sides and perused the materials placed on record.

6 This Court is of the opinion that the petitioner is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) as non refundable deposit to the credit of the Chief Minister's Public Relief Fund, Tamil Nadu, 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.

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) as non refundable deposit to the credit of the Chief Minister's Public Relief Fund, Tamil Nadu, within a period of two weeks 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-II, Nagapattinam, 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.10,000/- (Rupees ten thousand only) to the credit of the Chief Minister's Public Relief Fund, Tamil Nadu 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.

-sd/-
26/06/2020

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,
NO.II, NAGAPATTINAM

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
THITTACHERY POLICE STATION,
NAGAPATTINAM DISTRICT.

4 THE SECRETARY TO GOVT.,
CHIEF MINISTERS PUBLIC RELIEF FUND,
ST FORT GEORGE, CHENNAI
TAMIL NADU

CC to M/S.S.K.SYED ELIYAS Advocate on payment of necessary charges

WEB COPY

CRL OP.9451/2020

Date :26/06/2020

rd 22/07/2020