

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2020

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Cr1.OP.No.10905 of 2020

Haja Najipbudeen @ Hajanajupudeen ... Petitioner

Vs.

State represented by
Inspector of Police,
Muthupettai Police Station,
Thiruvarur District,
Crime No.698 of 2020

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C., praying to enlarge the petitioner on bail in the event of arrest in Crime No.698 of 2020 on the file of the respondent police.

For Petitioner : Mr.Swami Subramanian

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

O R D E R

(This case has been heard through video conference)

The Petitioner who apprehends arrest at the hands of the Respondent Police, for having allegedly committed the offences punishable under Sections 4(1)(aa), 4(1)(g) and 4(1-A) of Tamil Nadu Prohibition Act, in Crime No. 698 of 2020, has filed this Criminal Original Petition, under Section 438 of Cr.PC, seeking anticipatory bail.

2. The case of the Prosecution is that the Petitioner was found in possession of 65 litres of fermented wash. Hence, the complaint was registered.

3. According to the Petitioner, the Petitioner is in no way connected with the alleged offences and he has been falsely implicated in the case on hand. He would further submit that without prejudice to his defence, the petitioner is prepared to deposit a considerable amount to any charitable organization and prayed for grant of Anticipatory Bail.

4. On the other hand, the learned Additional Public Prosecutor, while opposing to grant anticipatory bail, would submit that the petitioner was found in possession of 65 litres

of fermented wash, without any valid licence. He further submitted that there is no previous case against the petitioner.

5. In order to curb the illegal possession of fermented wash, this Court is of the opinion that the petitioner is directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) as non refundable deposit to the '**Bar Council of Tamil Nadu and Puducherry (BCTNP) Advocates Relief Fund, Account No: 6873278505, Indian Bank, Madras High Court Branch with IFSC Code - IDIB000M157**' without prejudice to his rights and contentions before the trial Court.

6. 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.

(a) The petitioner is directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) as non-refundable deposit through RTGS/NEFT in favour of the '**Bar Council of Tamil Nadu and Puducherry (BCTNP) Advocates Relief Fund, Account No: 6873278505, Indian Bank, Madras High Court Branch with IFSC Code - IDIB000M157**' within fifteen (15) days from the date of receipt of a copy of this order. Thereafter, the petitioner is directed to be released on bail in the event of his arrest or his appearance and on production of proof of deposit of the above amount and on further condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties each for the likesum to the satisfaction of the police officer who intends to arrest, failing which the petition for anticipatory bail shall stand dismissed automatically and on further condition that the petitioner shall also give an letter of undertaking before the respondent/police that the said amount has been paid in respect of particular crime number.

[b] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the respondent/police may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[c] the petitioner shall report before the respondent police on every Monday and Friday at 10.30am, 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 thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

8. With the above directions, this Criminal Original Petition is ordered.

9. For reporting compliance, post on 13.08.2020.

-sd/-
22/07/2020

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,
THIRUTHURAIPOONDI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARUR DISTRICT[FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT,MADRAS.

4 THE INSPECTOR OF POLICE,
MUTHUPETTAI POLICE STATION,
THIRUVARUR DISTRICT.

5 THE BAR COUNCIL OF TAMIL NADU
AND PUDUCHERRY (BCTNP) ADVOCATES RELIEF FUND,
A/C NO:6873278505, INDIAN BANK, MADRAS
HIGH COURT BRANCH WITH
IFSC CODE-IDIB000M157

CC to M/S. SWAMISUBRAMANIAN Advocate on payment of
necessary charges

CRL OP.10905/2020

Date :22/07/2020

GKS (MK) :06/08/2020