

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

Crl.O.P.Nos.11045 and 11069 of 2020

1. Aathikesavan ... Petitioner/A4 in  
Crl.O.P.No.11045/2020

2. Kalaimani ... Petitioner/A7 in  
Crl.O.P.No.11069/2020

Vs.

The State Represented by,  
The Inspector of Police,  
H-4, Korukkupet Police Station,  
Chennai - 600 021.  
Crime No.4131 of 2020. ...Respondent in both petitions

Common Prayer: Criminal Original Petitions filed under Section 438 Cr.P.C., to enlarge the petitioners on bail in the event of arrest in Connection with the Crime No.4131 of 2020 pending on the file of the respondent police.

For Petitioner in  
Crl.O.P.No.11045/2020 : Mr. T. V. G. Kartheesan

For Petitioner in  
Crl.O.P.No.11069/2020 : Mr. K. Thenrarjan

For Respondent in  
both petitions : Mr. M. Mohammed Riyaz,  
Additional Public Prosecutor

ORDER

(This case has been heard through video conference)

In Crl.O.P.No.11045 of 2020 the petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 4(1) (aa) of TNP Act, 294(b),

353, 506(1) and 120B of IPC in Crime No.4131 of 2020, on the file of the respondent police, seeks anticipatory bail.

In Crl.O.P.No.11069 of 2020 the petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 4(1) (aa) of TNP Act and Section 294(b), 353, 506(i) and 120B of IPC and Section 3 of Epidemic Disease Act in Crime No.4131 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant is that the petitioners along with other accused had illegally possessed 490 Indian made foreign liquor bottles without any valid license. When the defacto complainant had questioned them, they have threatened the police. When they were apprehended, the arrested accused have confessed that they have purchased them from TASMAC to sell them for higher price during lockdown. Hence, the complaint.

3. The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case based on the confession of co-accused. He would further submit that the arrested accused have been enlarged on bail and there is no previous case against the petitioners. On instruction he would further submit that without prejudice to their defence, the petitioners are prepared to deposit considerable amount to any charitable Organization or Association. He would further submit that co-accused in this case have arrested and released on bail. Hence, he prayed for the grant anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor submitted that that the petitioners along with other accused had illegally possessed 490 nos. of Indian made foreign liquor bottles without any valid license in a container Lorry and a Tempo Traveller without obtaining proper licence to sell them at the open market for higher price. Hence, he vehemently opposed for the grant of anticipatory bail to the petitioners.

5. This Court is of the opinion that the petitioners are directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand Only) each, 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 their rights and contentions before the trial Court.

6. Merely, because the petitioners deposit 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.

7. Taking into consideration the above facts and circumstances of this case and also taking note of the fact that co-accused have been arrested and released on bail, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions:

[a] The petitioners are directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) each 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"** within fifteen (15) days from the date of receipt of a copy of this order. Thereafter, the petitioners are directed to be released on bail in the event of their arrest or on their appearance and on production of proof of deposit of the above amount and on further condition that the petitioner shall execute a separate bond for a sum of **Rs.10,000/- (Rupees Ten Thousand only)** with **two sureties**, 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 automatically and on further condition that the petitioners shall also give a letter of undertaking before the respondent police that the said amount has been paid in respect of particular crime number.

[b] 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.

[c] the petitioners shall report before the respondent police every Monday and Friday at 10.30 a.m., until further orders.

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

8. With the above directions, this Criminal Original Petitions are ordered.

Post the matter for "reporting compliance" on 14.08.2020.

-sd/-  
24/07/2020

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 METROPOLITAN MAGISTRATE NO.XV,  
GEORGE TOWN, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,  
EGMORE, CHENNAI [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,  
H-4, KORUKKUPET POLICE STATION,  
CHENNAI - 600 021.

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

+1CC to M/S. T.V.G.KARTHEEBAN Advocate on payment of  
necessary charges SR NO.5778

CRL.OP.NOS.11045 & 11069 OF 2020

Date :24/07/2020

MK:30/07/2020