

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

Cr1.O.P.No.11013 of 2020

Gopi

... Petitioner/A2

Vs.

The State Represented by,
The Inspector of Police,
Pernampet Police Station,
Vellore District.
Crime No.43 of 2020.

...Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C.,
to enlarge the petitioner on bail in the event of arrest in
Connection with the Crime No.43 of 2020 pending on the file of the
respondent police.

For Petitioner : Mr. S. Paul Gnanamuthu

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

ORDER

(This case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the
respondent police for the alleged offence punishable under Section 5
and 7 (1) of Lotteries Regulation Act, 1998 in Crime No.43 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 petitioner was found in possession of banned lottery
tickets. Hence, the complaint.

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. On instruction, he would further
submit that without prejudice to his defence, the petitioner is
prepared to deposit considerable amount to any charitable
Organization or Association. Hence, he prays to grant anticipatory
bail to the petitioner.

4. The learned Additional Public Prosecutor submitted that the
petitioner was found selling banned lottery tickets. He would further
submit that there is no previous case pending as against the
petitioner. However, he vehemently opposed for the grant of
anticipatory bail to the petitioner.

5. This Court is of the opinion that the petitioner shall 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 his rights and contentions before the trial Court.

6. Merely, because the petitioner deposits 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.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 petitioner is directed to be released on bail in the event of his arrest or on his 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/- (Ten thousand only) with two sureties each for a like sum 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 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 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 every Monday and Friday at 10.30 a.m., 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 is 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.

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 JUDICIAL MAGISTRATE,
GUDIYATHAM, VELLORE DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 INSPECTOR OF POLICE,
PERNAMPET POLICE STATION,
VELLORE DISTRICT.

4 BAR COUNCIL OF TN & PUDUCHERRY (BCTNP)
ADVOCATES RELIEF FUND, INDIAN BANK, MADRAS
HIGH COURT BRANCH, A/C.NO.6873278505,
IFSC CODE: IDIB000M157

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

WEB COPY

CRL OP.11013/2020

Date :24/07/2020

RVR 07/08/2020