

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No. 11010 of 2020

Dhanu ... Petitioner/1st Accused
Vs.

The State represented by,
The Inspector of Police,
P.E.W.Police Station,
Tiruvallur,
Tiruvallur District.

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on bail in the event of his arrest in Crime No.310 of 2020, pending on the file of the respondent police.

For Petitioner : Mr.B.Jawahar

For Respondent : Mr.M.Mohamed Riyaz

Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 4(1)(aaa) read with Section 4(1-A) of TNP Act, in Crime No.310 of 2020, on the file of the respondent police, seeks anticipatory bail.

2 The case of the prosecution is that on 27.06.2020, at about 03.00 a.m., on secret information the respondent police went to a TASMACH shop at Veppampatty and there, they have suspected the activities of the petitioner and another person. On enquiry it was revealed that the accused were in possession of 4344 IMFL brandy bottles and on seeing the police, the said persons escaped from the place. Hence, the complaint.

3 The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has no previous case. He would further submit that the entire contraband has been seized by the respondent.

4 The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner was found in possession of 4344 IMFL bottles, which worth Rs.6.50 lakhs. He would further submit that there are two previous cases pending against the petitioner. Hence, he opposed to grant anticipatory bail to the petitioner.

5. At this juncture, the learned Counsel for the petitioner would submit that the entire contraband has been seized by the respondent. However, without prejudice to his defence and contention, the petitioner is prepared to deposit some amount to any charitable association or organization and that the petitioner has drawn a Demand Draft for an amount of Rs.70,000/- (Rupees Seventy Thousand Only) in D.D.No.424032 at State Bank of India, Mugapair East Branch, in favour of the Bar Council of Tamil Nadu and Puducherry (BCTNP) Advocates Relief Fund. Hence, he prays to grant anticipatory bail to the petitioner.

6 Taking into consideration the facts and submissions made by the learned counsel, this court is inclined to grant anticipatory bail to the petitioner subject to the following conditions:

7 Accordingly, the petitioner is directed to deposit the said Demand Draft of Rs.70,000/- (Rupees Seventy Thousand Only) to "The Bar Council of Tamilnadu and Puducherry (BCTNP), Advocates Relief Fund, as non refundable deposit on or before 31.07.2020. On such deposit and on production of proof, the petitioner is directed to be released on bail in the event of his arrest or on his appearance, within a period of fifteen days from lifting of lockdown or the commencement of Court's normal functioning whichever is earlier, before the learned Judicial Magistrate No.I, Tiruvallur, on condition that the petitioner shall execute a separate 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 report before the respondent police every day at 10.30 a.m., for a period of two weeks and thereafter every Monday at 10.30 a.m., until further orders.

[c] 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.

[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.

-sd/-
29/07/2020

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 NO.I,
TIRUVALLUR.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVALLUR [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
P.E.W POLICE STATION,
TIRUVALLUR,
TIRUVALLUR DISTRICT

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

CRL OP.11010/2020

Date :29/07/2020