

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.OP.No.11264 of 2020

Subbu @ Subramani  
S/o. Krishnan

... Petitioner

Vs.

State represented by its  
The Inspector of Police,  
Hosur Police Station,  
Krishnagiri District.  
Crime No.551 of 2019.

... 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.551 of 2019 on the file of the respondent police.

For Petitioner : M/s. T.Shanmugam  
P.K.Harinathbabu

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 apprehend arrest at the hands of the  
respondent police for the offences punishable under Section 7(3) of  
Lotteries Regulation Act, 1998, in Crime No.551 of 2019, on the file  
of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that on a secret information,  
the respondent police went to the scene of occurrence and found A1  
announcing and selling Kerala lotteries for Rs.60/- (Rupees Sixty  
Only). The respondent police seized all those lottery tickets and  
arrested A1 on the same day and A1 has confessed that A2, the  
petitioner had also indulged in the crime. Hence, the complaint.

3. The learned Counsel for the petitioner submitted that the  
petitioner is innocent and that a false case has been foisted against  
him. On instruction, he would further submit that without prejudice  
to his defence, the petitioner is prepared to deposit considerable  
amount to any charitable organization. Hence, he prays for grant of  
anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor submitted that the  
petitioner was involved in the sale of illegal lottery. He further  
submitted that the petitioner has three previous cases pending

against him. Therefore, he opposed for grant of anticipatory bail to the petitioner.

5. This Court is of the opinion that the petitioner is directed to deposit a sum of Rs.30,000/- (Rupees Thirty 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.30,000/- (Rupees Thirty 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 everyday 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 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 18.08.2020.

-sd/-

27/07/2020

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.2, HOSUR

2 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,  
HOSUR POLICE STATION,  
KRISHNAGIRI DISTRICT.

4 THE BAR COUNCIL OF TAMILNADU  
AND PUDUCHERRY[BCTNP] ADVOCATE RELIEF FUND,  
INDIAN BANK, MADRAS HIGH COURT BRANCH  
Account No: 6873278505, Indian Bank,  
Madras High Court Branch with IFSC Code - IDIB000M157'

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

WEB COPY

CRL OP.11264/2020

Date :27/07/2020

RD 07/08/2020