

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.OP.No.11300 of 2020

1. M. Govindaraj @ Govindarasu, Age55,
S/o Marappan

2. M.Erusappan, Age 32,
S/o Madhaiyan

..... Petitioner/Accused 1 & 2

-Vs

State represented by,
The Inspector of Police,
Kolathur Police Station
Salem District.
Crime No. 360 of 2020)

...Respondent/complainant

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C.,
praying to enlarge the petitioners on bail in the event of their
arrest in Crime No.360 of 2020 on the file of the respondent police.

For Petitioners : M/s.Karan and Uday

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

O R D E R

(This case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the
respondent police for the offences publishable under Sections 4(1)
(g), 4(1)(a), 4(1-A) of Tamil Nadu Prohibition Act in Cr. No.360 of
2020, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that on 30.05.2020 at about
12.30 pm, the Petitioners were found in possession of 20 liters of
ooral (rectified spirit) in two plastic canes and also 5 liters of
I.D. Arrack containing of poisonous substance and based on the Secret
information, the Respondent Police seized the prohibited 5 liters of
I.D. Arrack from the Petitioners, thereby, the respondent police
registered a case against the petitioners.

3. The learned Counsel for the petitioners submitted that the
petitioners are innocent and that they do not commit any offence as
alleged by the prosecution and that a false case has been foisted
against them and that they do not have any bad antecedents or
previous case. Hence, he prays for grant of anticipatory bail to

the petitioners.

4. The learned Additional Public Prosecutor submitted that the petitioners were in possession of 40 litres of rectified spirit. The learned Additional Public Prosecutor further submitted that the details about the previous cases pending against the petitioners are not available. Hence, he opposed for grant of anticipatory bail to the petitioners.

5. In order to curb the illegal activities, this Court is of the opinion that the petitioners shall deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) each as non refundable deposit to the "The Bar Council of Tamilnadu and Puducherry (BCTNP), Advocates Relief Fund, Indian Bank, SB.A/c. No.6873278505, IFSC Code. No.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 facts and submissions of the learned Counsel, 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.10,000/- (Rupees Ten Thousand only) each, as non-refundable deposit either through RTGS/NEFT or in cash in favour of "The Bar Council of Tamilnadu and Puducherry (BCTNP), Advocates Relief Fund, Indian Bank, SB.A/c. No.6873278505, IFSC Code. No.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 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 stands dismissed automatically and on further condition that the petitioner shall also give a letter of undertaking before the respondent/police that the said amount has been paid in respect of particular crime number.

[a] 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.

[b] the petitioners shall report before the respondent daily at 10.30 a.m. for a period of two weeks and thereafter every Monday at 10.30 a.m. until further orders.

[c] the petitioners shall not tamper with evidence or witness or during investigation or trial.

[d] the petitioners shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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].

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

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

-sd/-
30/07/2020

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, METTUR, SALEM DISTRICT

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
KOLATHUR POLICE STATION,
SALEM DISTRICT.

4 THE BAR COUNCIL OF TAMILNADU
AND PUDUCHERRY[BCTNP]ADVOCATES RELIEF FUND,
INDIAN BANK,HIGH COURT BARANCH
SB.A/c. No.6873278505, IFSC Code. No.IDIB000M157

CC to M/S. KARAN AND UDAY Advocate on payment of necessary charges

CRL OP.11300/2020

Date :30/07/2020

RD 01/09/2020