

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.OP.No.11245 of 2020

Balaji, (M/A40)
S/o. Krishnamoorthy

... Petitioner

Vs.

State represented by
The Inspector of Police
Madhavaram Police Station,
Chennai
(Cr. No. 133 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C.,
praying to enlarge the petitioner on bail in the event of his arrest
in Crime No.133 of 2020 on the file of the respondent police.

For Petitioner : M/s.J.Sasilie

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 publishable under Sections 4(1)
(a), 4(1-A) of Tamil Nadu Prohibition Act in Cr. No.360 of 2020 on
the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that on 22.03.2020 at around
21.00 hours when the Respondent police was on a routine patrol within
the limits of Madhavaram, they found that the Petitioner herein
selling coney bags at a higher price and on opening the coney bag, 20
numbers of 180 ml Honey Bee brandy was found, out of which 4 bottles
were in open condition and it was having poisonous smell. Hence the
complaint.

3. The learned Counsel for the petitioner submitted that the
petitioner is innocent and that he was not present at the scene of
occurrence and that a false case has been foisted against him and
that there are two cases registered on the same day, and other than
these two cases, there is no case pending against this petitioner.
Hence, she prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor submitted that the petitioner was in possession of 20 numbers of 180 ml Honey Bee brandy. The learned Additional Public Prosecutor further submitted that there are no previous cases pending against the petitioner. However, he opposed for grant of anticipatory bail to the petitioner.

5. In order to curb the illegal activities, this Court is of the opinion that the petitioner shall be directed to deposit a sum of Rs.15,000/- (Rupees Fifteen Thousand only) 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 his rights and contentions before the trial Court.

6. Merely, because the petitioner 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 petitioner subject to the following conditions:-

[a] The petitioner is directed to deposit a sum of Rs.15,000/- (Rupees Fifteen Thousand only), 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.

[b] 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.

[c] the petitioner 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.

[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 abscond, a fresh FIR can be registered under Section 229A IPC.

8. 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 DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, MADHAVARAM

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
MADHAVARAM POLICE STATION,
CHENNAI.

4 THE BAR COUNCIL OF TAMILNADU
AND PUDUCHERRY[BCTNP]ADVOCATES RELIEF FUND,
INDIAN BANK,HIGH COURT BRANCH

CC to M/S. J.SASILIE Advocate on payment of necessary charges

CRL OP.11245/2020

Date :30/07/2020

RD 01/09/2020