

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2020

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CrI.OP.No.12535 of 2020

Santhosh

... Petitioner

Vs.

State rep by

... Respondent

The Inspector of Police,
R-4, Soundarapaniyanar Angadi Police Station,
Chennai.

Crime No.612 of 2020.

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.612 of 2020 on the file of the respondent police.

For Petitioner : Mr.K.Thenrajan

For Respondent : Mr.K.Prabakar,
Additional Public Prosecutor

ORDER

(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 Section 328 IPC and 6(a) of the Cigarette and other Tobacco Products Acts, 2003, in Crime No.612 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 on 24.07.2020 while the respondent police were on their routine raid they intercepted a two wheeler. On seeing the respondent police, some persons absconded from the scene of occurrence by leaving the above vehicle and on search found 15.300 kgs of Tobacco products. Hence the complaint.

3. The learned Counsel for the petitioners submitted that the petitioners are innocent and that they have been falsely implicated in this case based on the confession statement recorded from the arrested accused and on instruction, he would further submit that taking into consideration the present Covid pandemic situation the petitioner is prepared to donate/pay some considerable

amount to any charitable organization or association without prejudice to his defence and prayed for grant of anticipatory bail.

4. The learned Additional Public Prosecutor would submit that A1 was found in possession of 17.850 grams of banned tobacco in his shop and A2 confessed that the raw materials are supplied by this petitioner. He further submitted that there is no previous case pending against the petitioner. However, he opposed for grant of bail to the petitioner.

5. In order to curb the illegal activities and taking into consideration the voluntary submission made by the petitioner offering to donate/pay considerable amount to any charitable organization or association, this Court is of the opinion that the petitioner may be directed to donate/pay a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to **"The Cancer Institute (WIA), (Regional Cancer Centre), Adyar, Chennai- 600 020 bearing A/c.No.149710011005477, Andhra Bank, Madhya Kailash Branch"** 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 pay a sum of Rs.25,000/- either through RTGS/NEFT or in cash in favour of **"The Cancer Institute (WIA), (Regional Cancer Centre), Adyar, Chennai- 600 020 bearing A/c.No.149710011005477, Andhra Bank, Madhya Kailash Branch"** 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 payment 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 the 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 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.

<https://hcservices.ecourts.gov.in/hcservices/> [c] the petitioner shall report before the respondent

police daily 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 **after two weeks.**

-sd/-

19/08/2020

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 XVII JUDICIAL MAGISTRATE,
SAIDAPET.

2 THE CHIEF JUDICIAL MAGISTRATE,
EGMORE [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
R-4, SOUNDARAPANIYANAR ANGADI POLICE STATION,
CHENNAI.

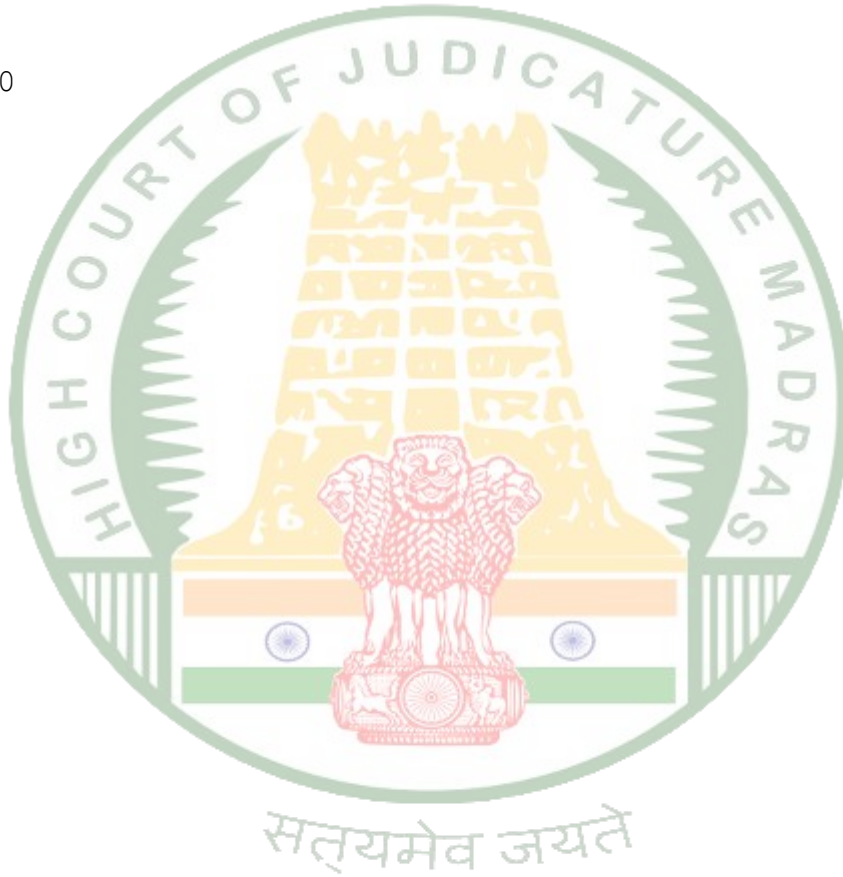
5 THE CANCER INSTITUTE (WIA), (REGIONAL CANCER CENTRE),
ADYAR, CHENNAI- 600 020
BEARING A/C.NO.149710011005477, ANDHRA BANK, MADHYA KAILASH BRANCH

CC to M/S.K.THENRAJAN Advocate on payment of necessary charges

CRL OP.12535/2020

Date :19/08/2020

MN-28/08/2020



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