

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2020

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.12523 of 2020

M.Varadharajan

... Petitioner

Vs.

The State Rep. By
The Inspector of Police
M3, Puzhal Police Station,
Chennai District.
(Crime. No. 2593/2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., to enlarge the petitioners on bail in the event of his arrest in Crime No.2593 of 2020 on the file of the respondent police.

For Petitioner : Mr.R.C.Paul Kanagaraaj

For Respondent : Mr.M.Mohammed Riyaz,
Additional Public Prosecutor

ORDER

(This 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 7 (1) (a)(ii) of Essential Commodity Act 1955 under Section 407 r/w. 109 IPC u/s 4 (1) (a) TamilNadu Prohibition Act in crime No.2593/2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that on 06.08.2020 the respondent received a specific information that one Periyasamy, Varadharajan,Alexander are handling petrol and diesel without any license and selling the same.Based on the information, at about 19.00 hrs, the respondent officials went to the office of Ganapathy Transport at No.38, M.A.Chithambaram Nagar,Puzhal, Chennai-66 and found one Periyasamy,Alexander and on enquiry they have confessed that the said person in the connivance with the lorry drivers and cleaners, used to offload the fuels from the

lorries and store the same in the barrels and used to sell the same to general public. Based on the statement, the respondent had arrested the above persons and seized 13 empty tanker lorries and in one tanker lorry bearing Registration No. TSK 6659 in one compartment 500 litres of diesel and 700 litres of petrol. The respondent also had seized 6 barrels each containing black color waste oil. Hence, the complaint.

3. The learned Counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that the petitioner's lorry was attached with the Ganapathy Transport for transporting petroleum products from Indian Oil Corporation and during lockdown, the movement of petroleum products was stopped and thereby, the lorry was stationed. Since, it was not safe to store the petroleum products inside the lorry, the arrested accused Periyasamy, Alexander and others have offloaded the petroleum products and stored in the transport office and the police on suspicion registered the case against the said persons and also against the petitioner who is the owner of the lorry. He would further submit that there is no previous case pending against the petitioner and that the arrested accused have been enlarged on bail. He would further submit that taking into 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 submitted that based on the specific information, the defacto complainant along with officials conducted search and at that time the accused were found to have illegally stored and possessed the petroleum products. The respondent police conducted search on the premises of Ganapathy Transport and found 7 barrels each containing 150 litres of diesel and two lorries were found containing petrol and diesel. He further submitted that there is no previous case as against the petitioner and the co accused released on bail in CrI.O.P.No.1673 of 2020 dated 26.08.2020 by Sessions Court, Tiruvallur. Hence, he opposed for grant of anticipatory bail to the petitioner.

5. 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 **Visharanthi Charitable Trust, Dena Bank, Alwarpet Branch, 83, TTK Road, Alwarpet, Chennai - 600 018. (Account No.086310000198, IFSC Code - BKDN0620863 Swift Code/Branch Code - 600018007)**, 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/- (Rupees Twenty Five Thousand only) either through RTGS/NEFT or in cash in favour of the **Visharanthi Charitable Trust, Dena Bank, Alwarpet Branch, 83, TTK Road, Alwarpet, Chennai-600 018. (Account No.086310000198, IFSC Code - BKDN0620863 Swift Code/Branch Code - 600018007)**, 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 separate bond for a sum of Rs.10,000/- (Rupees 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 a letter of undertaking before the respondent/police that the said amount has been paid in respect of particular organization.

[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 every Monday and Friday 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 **08.10.2020**.

-sd/-
07/09/2020

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-I,
THIRUVALLUR

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
M3,PUZHAL POLICE STATION, CHENNAI

5 VISHARANTHI CHARITABLE TRUST,
DENA BANK, ALWARPET BRANCH, 83, TTK ROAD,
ALWARPET, CHENNAI - 600 018. (ACCOUNT NO.
086310000198, IFSC CODE - BKDN0620863)

CC to M/S.R.C.PAUL KANAGARAJ Advocate on payment of
necessary charges

CRL OP.12523/2020

Date :07/09/2020

GKS:16/09/2020