

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2020

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CrI.OP.No.12680 of 2020

1. Prabhakaran
2. M.R.Rajendran

... Petitioners

Vs.

The State represented by
Inspector of Police,
P.E.W. Sirkazhi police station,
Nagapattinam District
(Crime No.567 of 2020)

... Respondent

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

For Petitioners : M.Vinoth

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

O R D E R

(This case has been heard through video conference)

The Petitioners who apprehends arrest at the hands of the Respondent Police, for having allegedly committed the offences punishable under Sections 4(1)(aaa), 4(1-A) of the Tamil Nadu Prohibition Act and Section 4 & 5 of TNRS Rules, in Crime No.567 of 2020, has filed this Criminal Original Petition under Section 438 of Cr.P.C., seeking anticipatory bail.

2. The case of the Prosecution as per the defacto complainant is that on the usual raid of the respondent police, the petitioners were found in possession of 420 litres of rectified spirit in 12 cans of 35 litres each. A1 was arrested and the other accused escaped from the scene of occurrence. Hence, the complaint was registered.

3. This Court heard the learned counsel for the Petitioners and the learned Additional Public Prosecutor for the Respondent and also perused the materials placed before this Court.

4. The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case based on the confession statement of the arrested accused Pethamma. On instruction, he would further submit that taking into consideration the present Covid pandemic situation the petitioners are 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.

5. On the other hand, the learned Additional Public Prosecutor, while opposing to grant anticipatory bail, would submit that the Petitioners and A1 were found in possession of 420 litres of rectified spirit, without any valid licence and A1 was arrested and the other accused escaped from the scene of occurrence. He further submitted that there is no previous case against the petitioners.

6. Taking into consideration the voluntary submission made by the petitioners 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.50,000/- (Rupees Fifty Thousand only) each to **"Missionaries of charity Mentally retarded children, Nirmala Shishu Bhavan, No.26/79, West Madha Church Road, Royapuram, Chennai-600013, South Indian Bank Limited, George Town Branch, A/c.No.0042053000009382, IFSC Code No.SIBL0000042"** without prejudice to their rights and contentions before the trial Court.

7. Merely, because the petitioners have deposited 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.

8. Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

(a) The petitioner is directed to pay a sum of Rs.50,000/- each either through RTGS/NEFT or in cash in favour of **"Missionaries of charity Mentally retarded children, Nirmala Shishu Bhavan, No.26/79, West Madha Church Road, Royapuram, Chennai-600013, South Indian Bank Limited, George Town Branch, A/c.No.0042053000009382, IFSC Code No.SIBL0000042"** within fifteen (15) days from the date of receipt of a copy of this order. Thereafter, the petitioners are directed to be released on bail in the event of their arrest or their appearance and on production of proof of payment of the above amount and on further condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Ten thousand only) with two sureties each 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 petitioners 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 petitioners 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 petitioners shall report before the respondent police daily at 10.30 a.m. until further orders.

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

[e] the petitioners 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 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]**.

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

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

10. For reporting compliance, post on **11.09.2020**.

-sd/-
20/08/2020

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 JUDICIAL MAGISTRATE COURT,
SIRKAZHI, NAGAPATTINAM DISTRICT

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM DISTRICT [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
P.E.W. SIRKAZHI POLICE STATION,
NAGAPATTINAM DISTRICT.

5 MISSIONARIES OF CHARITY
MENTALLY RETARDED CHILDREN, NIRMALA SHISHU BHAVAN,
NO.26/79, WEST MADHA CHURCH ROAD, ROYAPURAM,
CHENNAI-600013, A/C.NO.0042053000009382,

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

CRL OP.12680/2020

Date :20/08/2020

GKS:02/09/2020