

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.08.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.13036 of 2020

Sivakumar
S/o.Anandaraj

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Muthupettai Police Station,
Thiruvarur District.
Crime No.2068 of 2020.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of arrest in Crime No. 2068 of 2020 on the file of respondent police.

For Petitioner : Mr.Samisubramanian
For Respondent : Mr.M.Mohammed Riyaz
Additional Public Prosecutor

O R D E R

(The 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 328 of I.P.C.r/w. Section 7 and 20 (1) of Cigarettee and other Tobacco Products Acts, in Crime No.777 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. It is the case of the prosecution that the petitioner has transported banned guktha pockets without any permission. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. 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 appearing for the

respondent submitted that the petitioner has illegally transported 93 bundles of Hans tobacco each contains 30 pockets and 10 bundles of Chaini tobacco each contains 10 pockets and 20 rolls of Vimal pan masal of 30 pockets each and 30 roll of tobacco pockets each contains 30 pockets. He also submitted that there is no previous case pending against the petitioner. Hence he opposed for grant of anticipatory bail.

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.50,000/- (Rupees Fifty Thousand only) to "Cancer Institute (WIA), (Regional Cancer Centre), Adyar, Chennai - 600 020, bearing A/c.No.149710011005477, Andhra Bank, Madhya Kailash Branch" without prejudice to their 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.50,000/- either through RTGS/NEFT or in cash in favour of "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 their arrest or their 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.

[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.

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. Post the matter on 18.09.2020 'for reporting compliance'.

-sd/-

26/08/2020

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,
THIRUTHURAIPOONDI,
THIRUVARUR DISTRICT

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
MUTHUPETTAI POLICE STATION,
THIRUVARUR DISTRICT.

4 THE CANCER INSTITUTE (WIA)
REGIONAL CANCER CENTRE,
ADYAR, CHENNAI-600 020.

CC to M/S SWAMISUBRAMANIAN Advocate on payment of necessary charges

CRL OP.13036/2020

Date :26/08/2020

RD 07/09/2020