

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.09.2020

CORAM

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

Cr1.O.P.No.13407 of 2020

Jayaprakash

... Petitioner

Vs.

The Sub Inspector of Police,
Anthiyur Police Station,
Erode District.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner herein on bail on the event of arrest in Crime No.453 of 2019 pending on the file of the respondent herein.

For Petitioner : Mr.M.Deivanandam

For Respondent : Mr.M.Mohamed 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 420, 468 and 471 of IPC, in Crime No.453 of 2019, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the de-facto complainant is that one Malathy, Tashildar, Anthiyur Taluk, Anthiyur, Erode District alleging that on 25.07.2019, when the DRO conducted inspection on G.O. Gas an Auto Gas Bunk, situated at Sakthi Main Road, Annasalai, Kaspas Thavittupalayam, Anthiyur (AA) Village, Anthiyur Taluk, Erode District it was found that bunk was running on a forged No objection Certificate and action was taken against the bunk by locking and sealing it. On verifying the No Objection Certificate bearing No.R.Dis.300086/2018/C4, dated 21.01.2019 contained the forged signature of the DRO

based on which the certificate had been issued on 21.01.2019.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. He would further submit that the petitioner himself is the victim of circumstances, and the petitioner had engaged one Pandiarajan for getting the necessary document and paid service charge of Rs.1.75 lakhs but he had absconded with his money. He had given complaint against the petitioner on 23.07.2020 and enquiry was conducted in Pothonery Police Station in C.S.R.No.296 of 2019. Thereafter, he has also given a complaint to Senbiam Police Station on 05.08.2019, which was taken in C.S.R.No.1060 of 2019 for enquiry. Thereafter, on certain false allegations the petitioner was arrested by the Chennai Police and he was detained and when he was in detention, the petitioner was also formally arrested by the respondent police in Crime No.453 of 2019. However, the respondent had not taken steps to execute the PT warrant from the Court for taking him to judicial custody. He would further submit that recently when the petitioner is in prison he was affected with epilepsy and thereby by the HCP was taken for advance hearing and the detention order has been set aside. The petitioner was already in prison for six months in respect of the case registered by the Chennai Police. He would submit that the petitioner has been released on statutory bail in all the other three cases and after the detention order was set aside, he was released on 07.08.2020. Further, the petitioner is prepared to appear before the respondent in this case. Therefore, he prays for grant of anticipatory bail to the petitioner.

4. The respondent has filed a detailed counter affidavit.

5. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner is a habitual offender and there are several cases of similar nature. He would also submit that the petitioner was originally arrested by the Chennai police in connection with Crime Nos.26 of 2020 and 51 of 2020 and he was detained under Tamil Nadu Act 14 of 1988 and thereafter, the detention has been set aside. The respondent has formally arrested him, however the PT warrant has not been executed against him.

6. Taking into consideration the facts and submissions made by the learned Counsel and taking into consideration of the records and documents filed along with the petition, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

7. Accordingly, the petitioner is directed to be released on bail in the event of arrest or on his appearance, within a period of **three weeks** from the date of the commencement of the Court's normal functioning, before **the learned Judicial Magistrate No.II, Bhavani**, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] 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.

[b] **the petitioner shall report before the respondent Police daily at 10.30 a.m., for a period of four weeks and thereafter on every Monday at 10.30 a.m., until further orders.**

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.

[e] 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 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]**.

[f] 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/-
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 NO.II,
BHAVANI

2 THE CHIEF JUDICIAL MAGISTRATE
ERODE DISTRICT [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUB INSPECTOR OF POLICE,
ANDHIYUR POLICE STATION,
ERODE DISTRICT.

+2 CC to M/S.M.DEIVANANDAM Advocate on payment of
necessary charges SR.NO 6170

CRL OP.13407/2020

GKS:17/09/2020

सत्यमेव जयते

Date :07/09/2020

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