

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.14841 of 2020

Zia-ul-Haa

...Petitioner

Vs.

The State represented by,
The Sub Inspector of Police,
Shevapet Police Station,
Salem District.
(Crime No.892/2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on anticipatory bail in the event of his arrest in Crime No.892 of 2020 on the file of the respondent.

For Petitioner : Mr.S.Jeyakumar

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 24 (1) & 20 (1) of Cigarette and other Tobacco Products Act, 2003 and Sections 294 (b), 506 (i) and 328 of IPC in Crime No.892 of 2020, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner along with other accused was in possession of banned Tobacco 20 pockets. Hence, the complaint.

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 based on the confession of A1, 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 would submit that the petitioner was illegally found in possession of banned Tobacco 20 pockets. He would further submit that there are no previous cases pending as against the petitioner and the first accused was arrested and enlarged on bail. However, he opposed for grant of anticipatory 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.5,000/- (Rupees 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 deposit 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.5,000/- 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 on 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 a 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 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 daily at 10.30 a.m., for a period of two weeks and thereafter on every Monday at 10.30 am 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 is 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.

-sd/-
22/09/2020

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.III, SALEM.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUB INSPECTOR OF POLICE,
SHEVAPET POLICE STATION,
SALEM DISTRICT.

4 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.S.JEYAKUMAR Advocate on payment of necessary charges

CRL OP.14841/2020

Date :22/09/2020