

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.15008 of 2020

1. V.Divya
2. K.Tamilselvan ... Petitioners

Vs.

The State represented by,
The Inspector of Police,
Sirkazhi Police Station,
Nagapattinam District.
(Crime No.1240/2020) ... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioners on anticipatory bail in the event of their arrest in Crime No.1240 of 2020 on the file of the respondent.

For Petitioners : Mr.N.Palanivel

For Respondent : Mr.M.Mohamed Riyaz

Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 4(1) (aaa), 4 (1-A) Transport TNP Act in Crime No.1240 of 2020, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution as per the defacto complainant is that on 02.09.2020, when the respondent was on usual rounds the petitioners were in possession of 110 litres of ID arrack and 1300 Pandy pockets each weighing 180 ml. Hence, the complaint.

3. The learned Counsel for the petitioners would submit that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution and a false case has been foisted against them. 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 their defence and prayed for grant of anticipatory bail.

4. The learned Additional Public Prosecutor would submit that the petitioners were illegally found in possession of 110 litres of ID arrack and 1300 Pandy pockets each weighing 180 ml. He would further submit that there are no previous cases as against the petitioners. However, he opposed for grant of anticipatory bail to the petitioners.

5. In order to curb the illegal activities and 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 petitioners may be directed to donate/pay a sum of Rs.40,000/- (Rupees Forty 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 petitioners deposit 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.

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

[a] The petitioners are directed to pay a sum of Rs.40,000/- 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 petitioners are directed to be released on bail in the event of their arrest or on their appearance and on production of proof of payment of the above amount and on further condition that the petitioners shall execute a separate 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 petitioners shall also give a letter of undertaking before the respondent/police that the said amount has been paid in respect of particular crime

[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., for a period of two weeks and thereafter on every Monday at 10.30 am 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 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 abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
24/09/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

सत्यमेव जयते
TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.
WEB COPY

TO

1 THE JUDICIAL MAGISTRATE,
SIRKAZHI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
SIRKAZHI POLICE STATION,
NAGAPATTINAM DISTRICT.

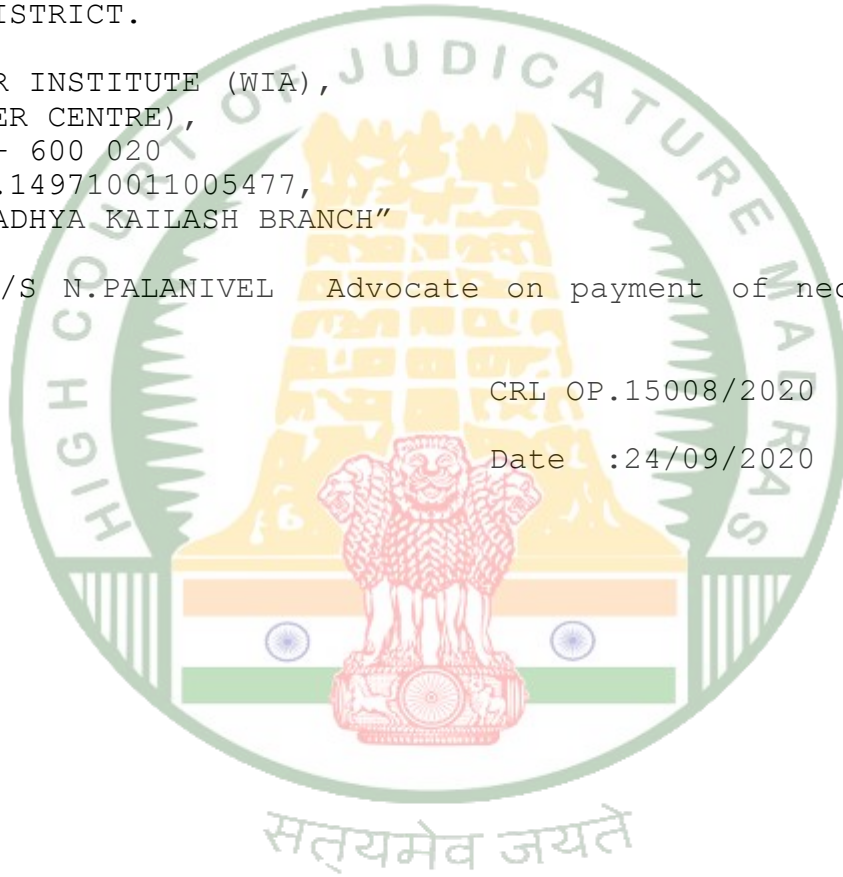
4 "THE CANCER INSTITUTE (WIA),
(REGIONAL CANCER CENTRE),
ADYAR, CHENNAI- 600 020
BEARING A/C.NO.149710011005477,
ANDHRA BANK, MADHYA KAILASH BRANCH"

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

CRL OP.15008/2020

Date :24/09/2020

MK:01/10/2020



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