

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.16772 of 2020

Killivalavan

.. Petitioner

Vs.

The State rep. by
The Inspector of Police
Thirukazhukundram Police Station
Chengalpattu District.
(Crime No.916 of 2020)

.. Respondent

Prayer: Criminal Original Petition filed under Section 438 of Criminal Procedure Code, praying to enlarge the petitioner on bail in the event of his arrest in Crime No.916 of 2020 on the file of the respondent police.

For Petitioner : Mr.K.Magalingam

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 under Sections 4(1)(aaa), 4(1-A) of Tamil Nadu Prohibition Act r/w 6 & 11 of RS Rules 2000 (Transporting), in Crime No.916 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 were found in illegal possession of 10 litres of I.D arrack. The same was seized by the respondent police.

3. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that for the past 7 years, the petitioner has no case. On instructions, he would further submit that without prejudice to his defence, the petitioner is prepared to deposit considerable amount to any charitable Organization or Association. Hence, he prays to grant anticipatory bail to the

4. The learned Additional Public Prosecutor would submit that the petitioner along with other accused were found in illegal possession of 10 litres of I.D arrack. He would further submit that the petitioner is an habitual offender and he has got one previous case which is of the year 2013 and it is similar in nature. However, he vehemently opposed to grant anticipatory bail to the petitioner.

5. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsels, this Court is inclined to grant anticipatory bail to the petitioner, subject to the following conditions:

a) Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Thirukazhukundram, Chengalpattu, on condition to make a non refundable deposit of Rs.20,000/- (Rupees Twenty thousand only) to the Chief Minister's Public Relief Fund, Indian Overseas Bank, Secretariat Branch, Chennai-600 009, S.B A/c.No.117201000000070 IFS Code IOBA0001172 CMPRF AAAGC0038F and on such deposit and production of proof and also on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, 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:

[b] 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.

[c] Merely, because the petitioner deposits 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.

[d] the petitioner shall report before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter, as and when required for interrogation.

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

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

[g] 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].

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

With the above direction, this Criminal Original Petition is ordered.

-sd/-
28/10/2020

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,
THIRUKAZHUKUNDRAM,
CHENGALPATTU.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
THIRUKAZHUKUNDRAM POLICE STATION,
CHENGALPATTU DISTRICT.

5 THE CHIEF MINISTER'S PUBLIC RELIEF FUND,
INDIAN OVERSEAS BANK,
SECRETARIAT BRANCH, CHENNAI-600 009,
S.B A/C.NO.117201000000070
IFS CODE IOBA0001172
CMPRF AAAGC0038F

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

CRL OP.16772/2020

Date :28/10/2020

cs 04/11/2020