

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

Cr1.O.P.No.17359 of 2020

Kamalesh

... Petitioner

Vs.

The State Represented by,
The Inspector of Police,
West Police Station,
Villupuram District.
(Cr.No.1900 of 2020)

....Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., to enlarge the petitioner on bail in the event of his arrest by the respondent police concerned in Crime No.1900 of 2020 on the file of the respondent.

For Petitioner : Mr.V.Janarthanan

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

ORDER

(This case has been heard through video conference)

The petitioner who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 4(1)(aa) and 4(1-A) of the Tamil Nadu Prohibition Act, in Crime No.1900 of 2020, on the file of the respondent police, seeks anticipatory bail.

2 The case of the prosecution as per the defacto complainant is that the petitioner was in illegal possession of 70 litres of rectified spirit and 3 litres of ID arrack. 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 was found in illegal possession of 70 litres of rectified spirit and 3 litres of ID arrack. He would further submit that there are no previous cases as against the petitioner. However, he opposed to grant 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.20,000/- (Rupees Twenty Thousand only) to "The Chief Minister's Public Relief Fund', Indian Overseas Bank, SB.A/c. No.117201000000070, IFSC Code. No.IOBA0001172" without prejudice to his 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.20,000/- (Rupees Twenty Thousand only) either through RTGS/NEFT or in cash in favour of "The Chief Minister's Public Relief Fund', Indian Overseas Bank, SB.A/c. No.117201000000070, IFSC Code. No.IOBA0001172" within fifteen (15) days from the date on which the order copy is made ready. Thereafter, the petitioner is directed to be released on bail in the event of his arrest or his appearance and on production of proof of payment of the above amount and on further condition that the petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees 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 a letter of undertaking before the respondent/police that the said amount has been paid in respect of particular organization.

[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 day 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 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 For reporting compliance, post on 23.11.2020.

-sd/-

05/11/2020

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,
VILLUPURAM

2 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM(FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
WEST POLICE STATION,VILLUPURAM.

5 THE CHIEF MINISTERS PUBLIC RELIEF FUND,
INDIAN OVERSEAS BANK, SECRETARIAT BRANCH,
CHENNAI SB.A/C. NO.117201000000070,
IFSC CODE. NO.IOBA0001172

CC to M/S. V.JANARTHANAN Advocate on payment of necessary charges Sr.7423

CRL OP.17359/2020

Date :05/11/2020

RVR 19/11/2020

<https://hcservices.ecourts.gov.in/hcservices/>