

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.17570 of 2020

Santhosh

... Petitioner

Vs.

The State Represented by, ... Respondent
The Inspector of Police,
Mecheri Police Station,
Salem District.
(Crime No.411/2019)

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioners on bail in the event of their arrest in Crime No.411 of 2019 on the file of the respondent police.

For Petitioner : Mr.S.Arivazhagan

For Respondent : Mr.M.Mohamed Riyaz

Additional Public Prosecutor

ORDER

(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 8(c) read with 20(b) (ii) (B) of NDPS Act, in Crime No.411 of 2019, 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 found in possession of 1.6 kgs of Ganja and the same was seized by the respondent police.

3.The learned counsel for the petitioner would submit that this is the second application for anticipatory bail. He would further submit that earlier application for anticipatory bail was filed in CrI.O.P.No.563 of 2020 and the same was ordered on 06.02.2020 with a condition that the petitioner shall deposit a sum of Rs.10,000/- (Rupees Ten Thousand Only) to the Cancer Institute(WIA), East Canal Bank Road, Adyar, Chennai. He would submit that due to poverty, the petitioner was unable to raise funds. In the meanwhile, the Courts were closed on account of COVID-19, thereby, the petitioner was

unable to surrender. Later, the petitioner had filed a petition for extension of time for furnishing sureties. At this juncture, this Court had dismissed the petition on the ground that the time has been lapsed, thereby, the present petition has been filed. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the petitioner is implicated in bail from the confession of A1, for a pointed query. He would further submit that there is no previous case pending against the petitioner. However, he opposed for grant of anticipatory bail to the petitioner.

5. It is seen that the petitioner was earlier granted anticipatory bail and that he has not complied with the conditions within the time stipulated by this Court. In view of the above, this Court is inclined to grant anticipatory bail to the petitioner with a cost of Rs.1000/- (Rupees One Thousand Only) to the **the Legal Service Authority attached to the concerned Court** and on further conditions that:

6. **The petitioner is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand Only) to the Cancer Institute(WIA), East Canal Bank Road, Adyar, Chennai and on such deposit and proof of payment, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen (15) days from the date on which the copy of the order is made ready, before the learned Special Judge for EC Act Cases (FAC)-III Additional District Judge, Salem, 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 and 5.30 p.m., for a period of 30 days and thereafter, as and when required for interrogation.**

[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 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]**.

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

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

-sd/-
09/11/2020

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 SPECIAL JUDGE FOR EC ACT
CASES (FAC)-III
ADDITIONAL DISTRICT JUDGE, SALEM.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE CANCER INSTITUTE (WIA),
EAST CANAL BANK ROAD,
ADYAR, CHENNAI.

4 THE INSPECTOR OF POLICE,
MECHERI POLICE STATION,
SALEM DISTRICT.

+1 CC to M/S.S.ARIVAZHAGAN Advocate on payment of necessary
charges SR.NO.7415

CRL OP.17570/2020

Date :09/11/2020

TA-23/11/2020