

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.17490 of 2020

M.Ananthakumar

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Thoppur Police Station,
Dharmapuri District.
(Crime No.196/2018)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioners on anticipatory bail in the event of his arrest in Crime No.196 of 2018 on the file of the respondent.

For Petitioner : Mr.M.Mariappan

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 273, 328 of IPC r/w. Sections 7 and 20 (1) of Cigarette and other Tobacco Products Act 2003 and 52, 59 of Food Safety and Standards Act, 2006 in Crime No.196 of 2018, 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 in possession of 2,10,000 pockets of banned Tobacco. 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 he is the driver of the vehicle and he is not aware of the contents in the vehicle. 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 2,10,000 pockets of banned tobacco products which is worth about Rs.10,50,000/-. He would further submit that there are no previous cases pending as against the petitioner and the arrested accused have been 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 each of the petitioner may be directed to donate/pay a sum of Rs.25,000/- (Rupees Twenty 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 their 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 petitioner with certain conditions :

[a] Each of the petitioner is directed to pay a sum of Rs.25,000/- 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 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 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/-
06/11/2020

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 NO.II,
DHARMAPURI.

2 THE CHIEF JUDICIAL MAGISTRATE
DHARMAPURI [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
THOPPUR POLICE STATION,
DHARMAPURI DISTRICT.

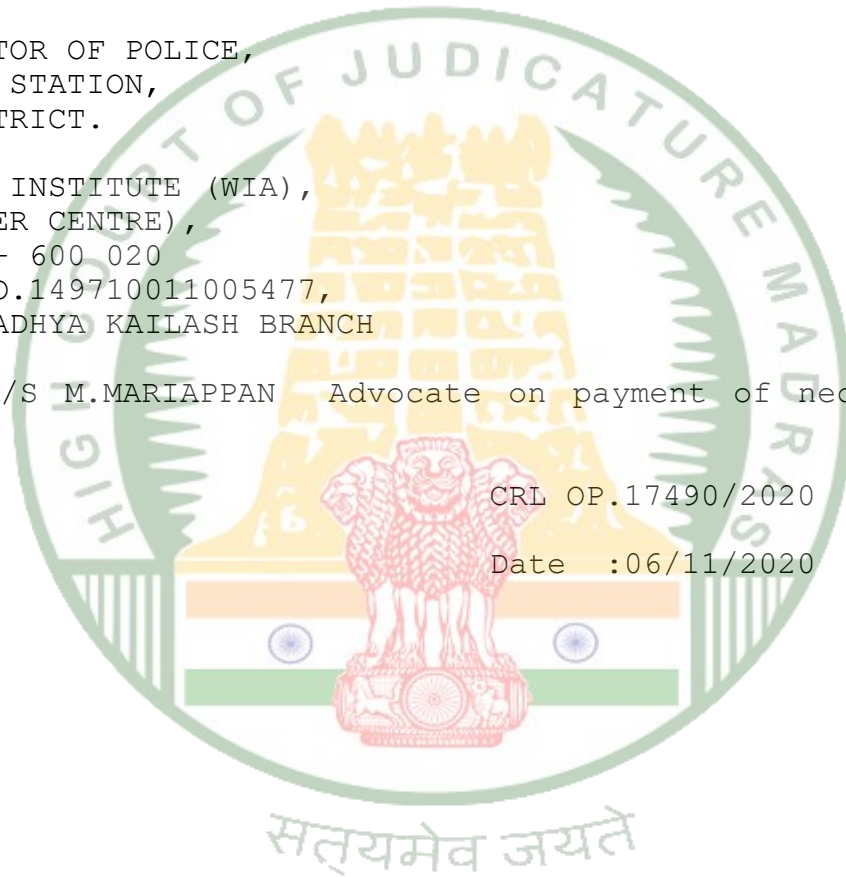
5 THE CANCER INSTITUTE (WIA),
(REGIONAL CANCER CENTRE),
ADYAR, CHENNAI- 600 020
BEARING A/C.NO.149710011005477,
ANDHRA BANK, MADHYA KAILASH BRANCH

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

CRL OP.17490/2020

Date :06/11/2020

MK:23/11/2020



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