

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.17540 of 2020

Mohan @ Mohanraj

... Petitioner/Accused(A1)

Vs.

The State represented by,
The Inspector of Police,
Uthiramerur Police Station,
Kancheepuram District.
(Crime No. 330 of 2019)

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on anticipatory bail in the event of her arrest by the respondent police in Crime No. 330 of 2019, on the file of the respondent police.

For Petitioner : Mr.R.Sasikumar

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 offence punishable under Sections 4(1)(aaa), r/w 4(1-A) of Tamil Nadu Prohibition Act (Transporting), in Crime No. 330 of 2019, on the file of the respondent, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner was found in illegal transportation of 4320 of Brandy bottles, by using TATA 207 Vehicle, bearing registration No. TN-32-8715, without any valid permission. 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 transportation of 4320 bottles of brandy by using TATA 207 Vehicle. He further submitted that there is no previous case pending 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.30,000/- (Rupees Thirty Thousand only) to the "Chief Minister's Public Relief Fund, Indian Overseas Bank, Secretariat Branch, Chennai 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.30,000/- (Rupees Thirty Thousand only) either through RTGS/NEFT or in cash in favour of "Chief Minister's Public Relief Fund, Indian Overseas Bank, Secretariat Branch, Chennai 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, every Monday at 10.30 a.m., 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.

-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 JUDICIAL MAGISTRATE,
UTHIRAMERUR

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
UTHIRAMERUR POLICE STATION,
KANCHEEPURAM DISTRICT.

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.R.SASIKUMAR Advocate on payment of necessary charges
Sr.7397

CRL OP.17540/2020

Date :09/11/2020

RVR 20/11/2020