

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.17872 of 2020

T.Balamurugan

... Petitioner

Vs.

The State Represented by
Inspector of Police,
Nellikuppam Police Station,
Cuddalore-607 105.
(Crime No.1509 of 2020) ... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on anticipatory bail in the event of his arrest in Crime No.1509 of 2020 on the file of the respondent.

For Petitioner : Mr.Govind Chandrasekhar

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 273 and 328 IPC r/w. Section 24 (1) of the Cigarette and other Tobacco Products (COTPA) Act, 2003** in Crime No.1509 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 possession of 730 kgs. of banned Tobacco products worth Rs.3,01,670/-. Hence, the complaint.

3.The learned Counsel for the petitioner would submit that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. On instructions, he would further submit that taking into consideration of 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 along with other accused was illegally found in possession of 730 kgs. of banned Tobacco products worth Rs.3,01,670/-. He would further submit that the petitioner is A6 and he is a seller. He would further submit that A1 to A3 in this case have been granted bail by this Court in CrI.O.P.Nos.16319 and 16324 of 2020 vide order dated 14.10.2020. He would further submit that there are no previous cases pending against the petitioner. 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 that he is ready to offer or 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.50,000/- (Rupees Fifty Thousand only), to the **"The Dean, Rajiv Gandhi Government General Hospital, Chennai, bearing A/c.No.10273425961, State Bank of India, Park Town, 68, Evening Bazaar Road, Chennai, IFSC No.SBI0001856, MICR No.600002037"**, without prejudice to his rights and contentions before the trial Court.

6. 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.

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 be released on bail in the event of 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 learned Judicial Magistrate-1, Cuddalore, 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, these Criminal Original Petition is ordered.

-sd/-

16/12/2020

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 - I,
CUDDALORE

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
NELLIKUPPAM POLICE STATION,
CUDDALORE DISTRICT-607 105.

5 THE DEAN, RAJIV GANDHI
GOVERNMENT GENERAL HOSPITAL, CHENNAI,
BEARING A/C.NO.10273425961, STATE BANK OF
INDIA, PARK TOWN, 68, EVENING BAZAAR ROAD,
CHENNAI.

+1 CC to M/S.GOVIND CHANDRASEKHAR Advocate on payment of
necessary charges SR.NO.8440

CRL OP.17872/2020

Date :16/12/2020