

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.18408 of 2020

Elumalai

... Petitioner

Vs.

The state represented by
The Inspector of Police,
Thanipadi Police Station,
Tiruvanamali District,
(Crime No.2899 of 2020).

.... Respondent

Prayer : Criminal Original Petition filed under Section 438 Cr.P.C.,
to enlarge the petitioner on bail, pending investigation in Crime
No.2889 of 2020 on the file of The respondent police

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 4(1)(aa) r/w4(1-A) (ii) of TN Prohibition Act in Crime No.2899 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that when the respondent police was in usual rounds they found that the petitioner was in possession of 60 liters of ID Arrack. 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. and he has been falsely implicated in this case. However, he would further submit that the petitioner is prepared to donate/pay some considerable amount to any charitable organization or association without prejudice to his defence and contention. Hence he prays for grant of anticipatory bail.

4. The learned Additional Public Prosecutor would submit that the petitioner was illegally found in possession of 60 liters of ID Arrack. He would further submit that there are no previous cases pending as 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 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.5,000/- (Rupees Five Thousand only) to " **TDHCORE trust, Perumbakkam Road, Tiruvannamalai 606 603**" without prejudice to his rights and contentions before the trial Court.

6. Merely, because the petitioner deposit 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.5,000/- either through RTGS/NEFT or in cash in favour of " **TDHCORE trust, Perumbakkam Road, Tiruvannamalai 606 603**" 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 their arrest or on their appearance and on production of proof of payment of the above amount the petitioner shall execute a separate 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 Judicial Magistrate, Chengam failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[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/-
23/11/2020

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, CHENGAM

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVANNAMALAI DISTRICT [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR, HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
THANIPADI POLICE STATION,
TIRUVANNAMALAI DISTRICT

5 TDHCORE TRUST,
PERUMBAKKAM ROAD, TIRUVANNAMALAI 606 603

+1 CC to M/S.M.MARIAPPAN Advocate on payment of necessary charges SR.NO.7801

CRL OP.18408/2020
Date :23/11/2020

GKS:16/12/2020