

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P No.19473 of 2020

Murugesh

... Petitioner

Vs.

The State rep. by

The Sub Inspector of Police,

Kolathur Police Station

Salem District

(Crime No.532 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure, to enlarge the petitioner on bail in the event of arrest in Crime No.532 of 2020 on the file of the respondent Police.

For Petitioner : Mr.Karan and Uday

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 Section 4(1)(a), 4(1-A) of Tamil Nadu Prohibition Act in Crime No.532 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner was found to be in illegal possession of 5 litres of I.D arrack. Hence the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. On instructions, he would further submit that taking into consideration of the Covid pandemic situation, the petitioner without prejudice to his defence, is prepared to make considerable donation to any charitable Organization or Association. Hence, he prays to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor for the respondent would submit that the petitioner was found in illegal possession of 5 litres of I.D arrack. He would further submit that there is no previous case pending against the petitioner.

5. In order to club the illegal activities and taking into consideration of 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 shall be directed to deposit a sum of Rs.10,000/- (Rupees ten thousand only) as non-refundable deposit through RGS/NEFT in favour of the "The Dean, Rajiv Gandhi Government General Hospital, Chennai, bearing A/c. No.10273425961, State Bank of India, Park Town (Chennai), 68, Evening Bazaar Road, Chennai, IFSC:SBIN0001856, on such payment and production of proof, he shall be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the Judicial Magistrate No.II, Mettur, Salem District, Chennai, on 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 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] Merely, because the petitioner deposit the said amount, it would not amount to admission of her guilt. Therefore, it is open to the trial Court to deal with the case independently.

[b] 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.

[c] the petitioner shall report before the respondent police daily at 10.30 a.m. until further orders.

[d] the petitioner shall not commit any offences of similar nature;

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[f] the petitioner shall not abscond either during investigation or trial.

[g] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioner/s 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 abscond, a fresh FIR can be registered under Section 229A IPC.

With the above direction, this Criminal Original Petition is ordered.

-sd/-
10/12/2020

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,
NO.II, METTUR, SALEM DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUB INSPECTOR OF POLICE,
KOLATHUR POLICE STATION,
SALEM DISTRICT.

5 THE DEAN,
RAJIV GANDHI GOVERNMENT GENERAL HOSPITAL,
CHENNAI, BEARING A/C. NO.10273425961,
STATE BANK OF INDIA, PARK TOWN (CHENNAI),
68, EVENING BAZAAR ROAD, CHENNAI,
IFSC:SBIN0001856

CC to M/S.KARAN AND UDAY Advocate on payment of necessary charges

CRL OP.19473/2020

Date :10/12/2020

cs 23/12/2020