



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 03/06/2020

PRESENT

The Hon`ble Dr.Justice G.JAYACHANDRAN

CRL OP(MD). No.5552 of 2020

D. Prabhu

... Petitioner/ Sole Accused

Vs

The State Rep. BY
Inspector of Police,
Thiruchulli Police Station,
Virudhunagar District,
in Crime No. 221 of 2020.

... Respondent/Complainant

For Petitioner : M/s. M. Jegadeesh Pandian,
Advocate.

For Respondent : Mr.R.Anandharaj,
Additional Public Prosecutor

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory Bail in Crime No. 221 of 2020 on the
respondent police

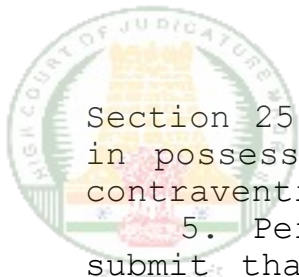
ORDER : The Court made the following order :-

The petitioner apprehending arrest at the hands of the
respondent police for the offences punishable under sections 25(1-A)
of Arms Act seeks anticipatory bail.

2. According to the petitioner he is a gun licence holder and
permitted to carry gun and cartridges. On 19.05.2020 his Innova
Crysta car bearing Reg. No. TN 12 Q 7277 met with a road accident
while he was travelling in the said Car. He had sustained injuries
in the said accident. The respondent police who recovered the
mangled car found live and empty rifle cartridges in it and has
registered the present case against the petitioner.

3. According to the petitioner he is a valid gun licence holder
and during the recent panchayat election he has surrendered his gun
at the armoury but forgot to surrender the ammunitions. The live
and empty cartridges were kept in his car which was recovered by the
police on 19.05.2020 after the car met with the accident.

4. The learned counsel for the petitioner would further submit
that since the petitioner is a valid gun licence holder he cannot be prosecuted under



Section 25(1-A) of Arms Act which is applicable to a person who is in possession of any prohibited arms or prohibited ammunition in contravention to Section 7 of the Arms Act.

5. Per contra the learned Additional Public Prosecutor would submit that admittedly live and empty cartridges were recovered from the car of the petitioner. The petitioner ought to have surrendered both Arms and ammunitions during the local body election. The petitioner has failed to do so. Therefore possessing arms or ammunition contrary to the notification amounts to unlawful possession as per Section 21 of the Arms Act. Therefore having not authorised to hold arms or ammunition in the light of notification the petitioner is rightly booked under Section 25(1-A) of the Arms Act. Further he submit that it is only a First Information Report and only during the course of investigation any other offence is made out against the petitioner, the respondent police will accordingly alter the charge, if necessary. Since the petitioner has failed to account for possessing cartridges both live and empty, he cannot be granted anticipatory bail.

6. Though the petitioner claims that he is valid arm licence holder and he has deposited the Arms in the armoury in view of local body election, there is no materials furnished by him to support his claim. It is an admitted case of the petitioner that he had in his possession live and empty cartridges and the same was recovered by the respondent police. He claims that he is valid arm licence holder and there is no past record of misusing his arm licence.

7. Taking note of this fact, this Court is inclined to grant anticipatory bail to the petitioner.

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Aruppukottai, Virudhunagar District on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five 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 said Magistrate, on further condition that:

[a] the petitioner shall not take back the arm deposited in the Armoury till filing of final report in this case.

[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 as and when required for interrogation.

[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 abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
03/06/2020

/ TRUE COPY /

/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

TO

1 THE JUDICIAL MAGISTRATE
ARUPPUKOTTAI,
VIRUDHUNAGAR.

2 -DO- THRO THE CHEIF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

3 INSPECTOR OF POLICE
THIRUCHULLI POLICE STATION,
VIRUDHUNAGAR DISTRICT,

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

Copy to :

THE DISTRICT COLLECTOR,
VIRUDHUNAGAR.

ORDER
IN
CRL OP(MD) No.5552 of 2020
Date :03/06/2020

PD/JC/SAR 2/04.06.2020/3P/6C