

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 11.01.2021

CORAM

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN
Crl.O.P.No.175of 2021

Mahendran

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Gangavalli Police Station,
Salem.

(Crime No. 602 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on bail, in the event of arrest in Crime No. 602 of 2020, pending investigation on the file of the Inspector of Police, Gangavalli Police Station, Salem.

For Petitioner : Mr.M.R.Franklin

For Respondent : Mr.S.Karthikeyan

Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner was arrayed as A3 in this case, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 4(1)(i), 4(1)(aaa) & 4(1-A) of Tamilnadu Prohibition Act, in Crime No. 602 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that on 18.12.2020, at about 11 a.m, A1 was selling ID Arrack near Goodamalai East Street, Thammampati Main road and when the defacto complainant consumed the same he had trouble in his body, due to which he lodged a complaint before the respondent police and the same was ended in registering the FIR. A1 was in possession of 3 lorry tubes each containing 40 liters of ID arrack totalling 120 litres and A1 was arrested and remanded to judicial custody on the very same day. Based on the confession statement of A1, the petitioner

has applied for anticipatory bail in this case.

<https://www.caserepository.com/cases/>

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 and he further submitted that the co accused in this case were arrested and released on bail. Accordingly he prays for anticipatory bail to the petitioner/A3.

4. The learned Additional Public Prosecutor would submit that there are totally three accused persons involved in this case and the petitioner was arrayed as A3 and 120 ltrs of ID Arrack was found with A1. He would also submit that the co accused / 1st petitioner was arrested and later released on bail. He further submitted that there was no previous as against the petitioner.

5. Taking into consideration the facts of the case and the submissions made by the learned counsels and also considering the arrest and release of the co accused/A1, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions:

6. Accordingly, the petitioner/A3 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 No.II, Attur, on condition that the petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, 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] 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.

[b] the petitioner shall appear before the respondent police daily at 10.30 am, until further orders.

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

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

[e] 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

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

7. With the above directions, this Criminal Original Petition is ordered.

-sd/-
11/01/2021

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,
ATTUR.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
GANGAVALLI POLICE STATION,
SALEM.

CC to M/S.M.R.FRANKLIN Advocate on payment of necessary charges

CRL OP.175/2021

Date :11/01/2021

MK:01/02/2021

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