

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.01.2021

CORAM

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P.No.444 of 2021

Mahalakshmi

... Petitioner

Versus

State Rep.by

... Respondent

The Station House Officer,
Thiruppapuliur Police Station,
Cuddalore District.
(Crime No.1314 of 2020)

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge petitioner on bail in the event of his arrest in connection with Crime No.1314 of 2020 on the file of the respondent police.

For Petitioners: Mr.R.Sasikumar

For Respondent : Mr.C.Iyyappa Raj
Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner, who apprehends arrest for the alleged offence under Sections 273, 328 of IPC r/w Section 24(1) of the Cigarette and other Tobacco Products Act, 2003, in Crime No.1314 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant Mr.Kathiravan, Sub Inspector of Police is that on specific information, on 14.08.2020 he had conducted a raid in the shop run by the petitioner and the petitioner along with her husband and others were found in possession of 7.753 kgs of Tobacco Products following which, the police arrested the husband of the petitioner and others and that the petitioner escaped from the scene of occurrence.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and she has been falsely implicated in this case based on the confession of A1. He would submit that this is the third anticipatory bail application

and the earlier application was dismissed in CrI.O.P.No.18960 of 2020 on 08.12.2020. He would submit that other than that the shop has been run in the name of the petitioner by her husband, she has no role in the offence. He would submit that the first accused in this case namely Bharathi/the husband of the petitioner was running the business in the name of the petitioner and that the petitioner is an ordinary house wife and she has no role in the business run by her husband. The petitioner has never been at the business premises and her name has been implicated only based on the confession of her husband. He would submit that the change of circumstances after the earlier dismissal is that her husband A1 has been detained under Act 14 and the other arrested accused have been enlarged on bail. He would submit that the petitioner is suffering from various ailments and that the petitioner is prepared to donate/pay some considerable amount to any charitable organization or association without prejudice to her defence and prayed for grant of anticipatory bail.

4.The learned Additional Public Prosecutor submitted that the petitioner is the wife of the main accused Bharathi. The shop was run in the name of the petitioner and as per the confession recorded from A1, the petitioner was aware of the illegal business done by her business and she was also present at the scene of occurrence when the goods were unloaded and stocked in the shop of the petitioner. He would submit that A1 has been detained under Act 14 and the other arrested accused / A2 to A5 have been enlarged on bail and A6 is still at large. Hence, he vehemently opposed for the grant of anticipatory bail to the petitioner.

5. Heard the learned Counsels on both sides.

6. In this case, the petitioner is arrayed as A2. She is stated to be the wife of the main accused. The allegation is that the shop is run by A1 in the name of the petitioner and that A1 has confessed that the petitioner is aware of the offence committed by him. It is the case of the petitioner that she is a house wife.

7. 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.2,00,000/- (Rupees Two Lakhs Only), to "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," without prejudice to her rights and contentions before the trial Court.

8. Taking into consideration the facts and circumstances of the case and the fact that A1 has been arrested and detained

under Act 14 of 1982 and the other arrested accused/A2 to A5 have been enlarged on bail and also taking into consideration the voluntary submission made by the petitioner, this court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

9. Accordingly, the petitioner is directed to pay a sum of Rs.2,00,000/- (Rupees Two Lakhs Only), to "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 proof, the petitioner is ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen days from the date on which the order copy is made ready, before the learned Judicial Magistrate-III, Cuddalore, on condition that the petitioner shall execute a 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] 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.

[b] the petitioner shall report before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter, every Monday at 10.30 a.m. 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 SCW 5560].

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

[g] 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.

-sd/-

20/01/2021

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-III,
CUDDALORE.

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE STATION HOUSE OFFICER,
THIRUPPAPULIYUR POLICE STATION,
CUDDALORE 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

+1 CC to M/S.R.SASIKUMAR Advocate on payment of necessary charges SR NO. 601

CRL OP.444/2021

Date :20/01/2021

MN-03/02/2021

<https://hcservices.ecourts.gov.in/hcservices/>