

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.03.2021

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

CrI. O.P.No.2540 of 2021

M.Devaraj

.. Petitioner

Vs.

State rep.by

The Station House Officer,
Olakkur Police Station,
Olakkur, Villupuram District.
(Crime No.1466 of 2020)

.. Respondent

Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on bail, in the event of his arrest in connection with Crime No.1466 of 2020 on the file of the respondent police.

For Petitioner : Mr.G.Tamilselvan

For Respondent : Mrs.S.Thankira

Government Advocate(CrI side)

ORDER

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Sections 273, 328 of IPC, r/w Section 24(1) of Cigarette and Other Tobacco Products Act, 2003, in Crime No.1466 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The learned counsel for the petitioner would submit that the petitioner has been falsely implicated in this case. He would further submit

that this is the second anticipatory bail application and prays for grant of anticipatory bail to the petitioner.

3. The learned Government Advocate (CrI. Side) appearing for the respondent police would submit that the investigation is not yet completed for the reason that the accused is still absconding. She would further submit that already the accused was arrested and released on bail and again, he committed similar offence. Hence, she would vehemently oppose for granting anticipatory bail to the petitioner.

4. Considered the rival submissions made on either side.

5. It is seen that FIR in this case was registered on 19.12.2020. When the matter was taken up for last hearing on 22.02.2021, learned Additional Public Prosecutor prayed for two weeks time to complete the investigation. Even after granting sufficient time, it is reported that the accused is not yet arrested and the investigation is not completed. Petitioner is not a big person and he was only a petty shop owner and he cannot go to any abroad to abscond from the prosecution. The fact that the police have not arrested the petitioner shows that the police is not serious in arresting him and completing the investigation. Police just want to keep this case pending like a domical sword over the head of the petitioner. This cannot be encouraged and in this view of the matter, this Court is inclined to grant anticipatory bail to the petitioner.

6. 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 No.I, Tindivanam, 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 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 four weeks and thereafter, as and when required for interrogation.

[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.

[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 be 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]**.

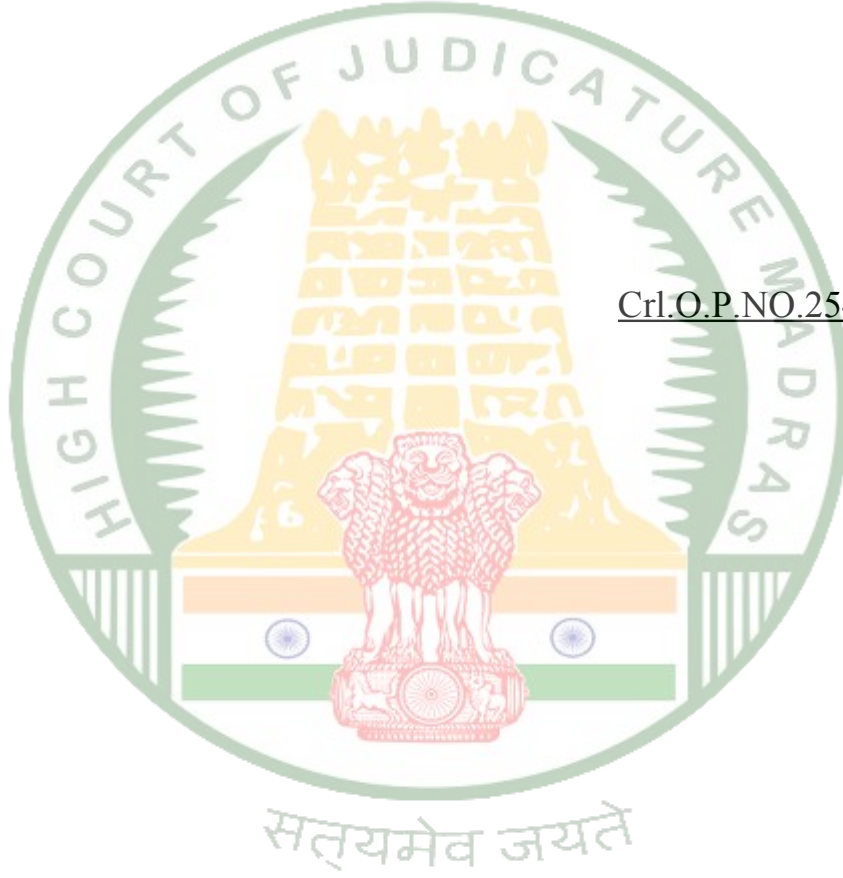
[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

Mra

08.03.2021

G.CHANDRASEKHARAN,J.

mra



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