

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.03.2021

CORAM

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

CRL.O.P.No.2159 of 2021

R.Gandhi

... Petitioner

Vs.

State Rep. by

The Inspector of Police,

Thimiri Police Station,

Ranipet District

Crime No.648 of 2020

... Respondent

Prayer: 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.648 of 2020 on the file of the respondent.

For Petitioner : Mr.Senthil Kumaran for
Mr.C.S.Vijayakumar

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

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 15(3) of Indian Medical Council Act, 1956 read with Section 420 IPC, in Crime No. 648 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant Saravanan, Block Medical Officer, Primary Health Center, Thimiri, Arcot Taluk, is that earlier on 11.06.2020 on the complaint given by one Dr.K.Keerthi, a committee was formed and a search was conducted in the Clinic run by the petitioner/accused and that the clinic was sealed. While so, an information was received that the petitioner / accused had opened the sealed clinic and giving treatment. On such information, inspection was conducted on 25.07.2020. In the meantime, the petitioner/accused had absconded from the clinic and on search no incriminating materials were seized and the case came to be registered against the petitioner/accused for having practicing Alopactic Medicine without proper license. Hence, the complaint was registered.

3. The learned Counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would submit that the petitioner was running a medical store and one Dr.Selvakumar, a qualified Alopactic doctor was running a Clinic nearby the medical store and due to business rivalry, a false complaint has been given against the petitioner. He would submit that on the earlier occasion, based on complaint given by one Dr.Keerthi, District Liaison Officer, a false case was registered against the petitioner in Crime No.547 of 2020 for offence under Sections 419, 420, 188, 270 IPC and 15, 15(3) of the Indian Medical Council Act, and Section 2 of Epidemic Disease Act and Section 76 of Tamilnadu Public Health Act 1939 following which, the petitioner was arrested by the respondent police and he was in custody for 6 days. Later, he was released on bail by the Judicial Magistrate-I, Walajapet, Vellore, vide e-Bail No.3 of 2020 dated 17.06.2020. He would submit that the petitioner who is a senior citizen aged 65 years had sustained distal both bones fracture right leg following which he had underwent nailing at CMC, Vellore, prior to one year. Since, he was facing difficulties in walking, he got admitted in MIOT Hospital, Chennai, as inpatient for treatment on 08.08.2020 and he was under going continued treatment and while he was at Chennai, the second case has been registered against him on 16.08.2020. He would submit that the petitioner was not at all present at Thimiri and based on a false information, a false case has been registered against him and that the petitioner had not done any illegal act. He would submit that due to the second false case registered against the petitioner, he has been apprehending arrest and that the petitioner is prepared to abide any stringent condition that may be imposed on him. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that on the complaint given by one Dr.Keerthi, a case in Crime No.547 of 2020 was registered against the petitioner on 11.06.2020 and the petitioner was arrested and remanded to judicial custody. Thereafter, he was enlarged on bail and based on registration of the case in Crime No.547 of 2020, the clinic was sealed. However, the petitioner had illegally opened the clinic through the door in the back side and giving treatment. Hence, the case has been registered for offence under Section 15 (3) Indian Medical Council Act and 420 IPC. He would submit that the investigation is pending. Hence, he opposed for grant of anticipatory bail to the petitioner.

5. At this juncture, the learned Counsel for the petitioner would submit that the petitioner is prepared pay/donate some considerable amount to any charitable organization of association without prejudice to his rights and contention.

6. Heard the Counsels on either side and perused the materials on record.

7. Taking into consideration the facts and circumstances of the case and the voluntary submission made by the learned Counsel for the petitioner offering to donate some 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.15,000/- (Rupees Fifteen Thousand 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 his rights and contention before the trial Court.

8. Accordingly, the petitioner is directed to pay a sum of Rs.15,000/- (Rupees Fifteen Thousand 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 his appearance, within a period of fifteen days from the date on which the order copy is made ready, before the learned Judicial Magistrate-I, Walajapet, Ranipet District, 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 his guilt. Therefore, it is open to the trial Court to deal with the case independently.

-sd/-
01/03/2021

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.I,
WALAJAPET, RANIPET DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE [INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
THIMIRI POLICE STATION,
RANIPET 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

+1CC to M/S.C.S.VIJAY KUMAR Advocate on payment of necessary
charges SR NO.2486

CRL OP.2159/2021

Date :01/03/2021

MK:09/03/2021