



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.07.2021

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.11643 of 2021

Magesh @ S.Mageshkumar

..Petitioner

-Vs-

The State Rep by
The Inspector of Police,
Red Hills Police Station,
Chennai District.
Crime No.116 of 2021

..Respondent

Prayer: Criminal Original petition filed under Section 438 of Cr.PC to enlarge the petitioner on bail in the event of his arrest for the alleged offences U/s 7, 20 (2) of Cigarette and other Tobacco Products Act 2003 and Section 328 of IPC, in the case in Crime No. 116 of 2021 on the file of the respondent police, pending investigation.

For Petitioner : Mr.M.I.Javid Akbar

For Respondent : Mr.C.E.Pratap
Government Advocate(Criminal 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 under Sections 7, 20 (2) of Cigarette and other Tobacco Products Act 2003 and Section 328 of IPC, in Crime No.116 of 2021 on the file of the respondent police, seeks anticipatory bail.

2.There are totally four accused and the petitioner is arrayed as A4. The case of the prosecution is that the petitioner along with other accused have transported 7655 Kgs of TOBACCO products without any valid license or permit. Hence the law enforcing agency registered a complaint against the petitioner and other accused.

3.The learned counsel appearing for the petitioner submitted that the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. He further submitted that A1 to A3 were arrested and enlarged on bail by this Court in Crl.O.P.No.7952 of 2021 dated 28.04.2021. However, on instructions, the learned counsel further submitted that the



petitioner, on his own volition, are ready and willing to contribute a sum of Rs.4,00,000/- for the purpose of constructing toilet in Government Girls Higher Secondary School, Tiruvallur District. Hence, he prayed for grant of anticipatory bail to the petitioner.

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4.The learned Government Advocate (Crl. side) submitted the petitioner along with other accused have transported 7655 Kgs of TOBACCO products without any valid license or permit. He further submitted that there is no previous case pending against the petitioner. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

5.Considering facts and circumstances of the case, I am 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.II, Ponneri, 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)if the petitioner failed to surrender before the concerned Magistrate within a period of 15 days from the date of receipt of a copy of this order, this order shall stand automatically cancelled;

(b)the petitioner shall make a non-refundable deposit of Rs.4,00,000/- (Rupees Four Lakhs Only) to the credit of the Chief Educational Officer, Tiruvallur, for construction of Toilet in Government Girls Higher Secondary School, Tiruvallur, without prejudice to his defence before the trial Court and submit the proof of payment of the said amount before the aforesaid learned Judicial Magistrate, who after perusing the challan/ receipt/acknowledgement, shall accept the sureties furnished by the petitioner;

(c)the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(d)the petitioner shall report before the respondent police daily at 10.30 a.m. until further orders;

(e)the petitioner shall not tamper with evidence or witness either during investigation or trial;

(f)the petitioner shall not abscond either during investigation or trial;

(g)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]; and;

(h)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

7. In the result, this Criminal Original Petition is ordered and this Court directs the Chief Educational Officer to submit the necessary proof with regard to the expenditure incurred for the construction of toilet of the Girls Government Schools in the District before the Director of School Education for the purpose of verification once in three months.

-sd/-
07/07/2021

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,
PONNERI,

2 THE CHIEF JUDICIAL MAGISTRATE,
THIRUVALLUR DISTRICT (FOR INFORMATION) .

3 THE INSPECTOR OF POLICE,
RED HILLS POLICE STATION,
CHENNAI.

4 THE CHIEF EDUCATIONAL OFFICER,
THIRUVALLUR.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.M.I.JAVID AKBAR Advocate on payment of necessary charges.

CRL OP.11643/2021

Date :07/07/2021