

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.06.2021

CORAM :

THE HON'BLE MR. JUSTICE M.SUNDAR

Crl.O.P.No.9787 of 2021

D.Sivamani

... Petitioner

Vs.

The State, rep. by
Inspector of Police,
PEW - P.N.Palayam Police Station,
Coimbatore District
(Crime No.863 of 2021)

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of his arrest in Crime No.863 of 2021 pending investigation on the file of the Respondent.

For Petitioner : Mr.W.Camyles Gandhi

For Respondent : Mr.A.Gopinath,
Government Advocate (Crl.Side)

O R D E R

(The case has been heard through video conference)

The petitioner, apprehending arrest by the respondent State for alleged offences punishable under Sections 4(1)(i), 4(1)(aaa) of the Tamil Nadu Prohibition Act, 1937 and 271 of the 'Indian Penal Code, 1860' ('I.P.C.' for the sake of brevity), has moved the captioned Criminal Original Petition under Section 438 of the 'Criminal Procedure Code, 1973' seeking anticipatory bail vide Crime No. 863 of 2021 on the file of P.N.Palayam Police Station, Coimbatore District.

2. This Court heard Mr.W.Camyles Gandhi, learned counsel for petitioner and Mr.A.Gopinath, learned State Counsel on behalf of respondent.

3. Four persons in all are said to have been found in possession of liquor i.e., Brandy and Beer bottles. Three of them, who were arrested gave statements that they are working in a Bar run by the petitioner and that this Bar is attached to a TASMAL shop i.e. Shop No.2232, Chettipalayam Othakal Mandapam, Coimbatore. This is the prosecution version.

4. Learned Counsel for petitioner submits that petitioner is innocent and he has been framed merely on the ground that he runs a Bar. There are no adverse antecedents qua petitioner is his further say.

5. Three persons, who were arrested were enlarged on bail vide order dated 31.05.2021 in CrI.M.P. No.356 of 2021 on the file of learned District Munsif cum Judicial Magistrate, Madukarai. It is also submitted by the learned counsel for petitioner that as per his instructions, there is no dispute regarding there being no adverse antecedents qua the petitioner, who is accused No.4 in the aforementioned matter.

6. In the light of the narrative thus far, more particularly in the light of the fact that A1 to A3 have already been enlarged on bail by the jurisdictional court, this Court is inclined to accede to the prayer for anticipatory bail to the petitioner.

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance before the learned Judicial Magistrate, Madukarai, 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 jurisdictional Magistrate on or before 05.07.2021 or within a fortnight from the date of resumption of work of acceptance of sureties by the jurisdictional Magistrate whichever is later and on further conditions that:

(a) the petitioner and the sureties shall affix their photographs and left thumb impressions in the surety bonds and the Magistrate may direct production of their Aadhar cards or Bank pass Books to ensure / verify their identities;

(b) the petitioner shall report before the respondent police as and when required for interrogation;

(c) the petitioner shall not tamper with evidence or witnesses either during investigation or trial;

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

(e) if there is 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 itself as per P.K.Shaji principle being law laid down by Hon'ble Supreme Court in P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560];

and

(f) though obvious, it is made clear that if the accused / petitioner herein thereafter absconds, consequences ingrained in Section 229-A I.P.C. will follow wherever applicable.

-sd/-

04/06/2021

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,
MADUKARAI.

2 THE DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, MADUKARAI.

3 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION]

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
PEW-P.N.PALAYAM POLICE STATION,
COIMBATORE DISTRICT.

+1 CC to M/S W.CAMYLES GANDHI Advocate on payment of necessary charges SR.No.6365

CRL OP.9787/2021

Date :04/06/2021

cs 17/06/2021