

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2021

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.18202 of 2020

A.Prabhu

... Petitioner

Vs.

State by its,
The Inspector of Police,
Sivakanchi Police Station,
Kanchipuram
Kanchipuram District.
(Crime No.15 of 2019)

.... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C., praying to enlarge the petitioner on bail, in the event of his arrest in Crime.No.15 of 2019 on the file of the respondent police.

For Petitioner : Mr.K.G.Senthilkumar

For Respondent : Mr.C.Iyyappa Raj

Additional Public Prosecutor

ORDER

(This Case has been heard through Video Conferencing)

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 353, 307, 506(2) of IPC R/w, Section 8(C), 20(b)(ii)(B) of NDPS Act and Section 25(1B)(b), 25(1)(b) of Arms Act in Crime No.15 of 2019 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution, as per the defacto complainant is that on 14.01.2019, while he along with his team was on patrolling, he had seen a car going along Potheri Street. When it was intercepted, 3 persons were inside the car. On seeing the police, two persons escaped from the scene on occurrence and one person was apprehended at the scene of occurrence and 1.900 Kgs of Ganja and a country made gun was recovered from the car. Hence the complaint.

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 this is the second

application for anticipatory bail and the earlier application filed by the petitioner was dismissed on 13.10.2020 in CrI.O.P.No.16217 of 2020. He would submit that the petitioner has been implicated in this case only on the confession of A1 who is stated to have been apprehended at the scene of occurrence. He would further submit that based on the confession of A1, one Perumal @ Bullet Perumal/A2 was also implicated in this case against whom there are 17 previous cases and that the said Perumal, who is similarly placed as that of the petitioner, has been granted anticipatory bail by this Court vide CrI.O.P.No.4574 of 2019 by order dated 20.02.2019. Since, the petitioner was not aware of the order, he was unable to place the order before this Court during the earlier application. He would further submit that the petitioner had underwent heart surgery on 12.02.2019. When such was his health condition, the allegation that the petitioner had travelled with the other accused on 14.01.2019 is unbelievable. He would further submit that though the petitioner is stated to have 7 previous cases against him, he has been appearing before the Court either in person or through Counsel in all the other cases. He would submit that based on a false case registered by Kancheepuram Taluk Police, in Crime No.889 of 2019 the petitioner was arrested on 23.12.2019 and later clamped with a detention order on 05.01.2020. Subsequently, the order of detention was revoked by the Government by order dated 19.02.2020. He would submit that while the petitioner was in custody, the respondent who is the near by station and who is aware of the pendency of the case against the petitioner, has not taken steps to formally arrest the petitioner in the present case. Thereafter, the petitioner was granted bail in Crime No.889 of 2019 and he was not aware of the pendency of the case. Later, when he came to know about the pendency of the case, he filed a petition seeking for anticipatory bail before this Court. However, since the petitioner had underwent heart surgery, he was unaware and thereby, unable to produce the copy of the anticipatory bail granted to the co-accused Perumal. He would submit that the petitioner suffering from serious heart ailment and he is prepared to abide by any stringent condition and to execute sufficient sureties for his release. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the petitioner is a notorious offender against whom there are seven previous cases out of which, two cases are for Section 302 IPC and all these cases are pending trial. He would submit that the case of the petitioner cannot be equated with the other accused who has been granted anticipatory bail. Hence, he vehemently opposed for grant of anticipatory bail to the petitioner.

5. At this juncture, the learned Counsel for the petitioner would submit that against the said Perumal @ Bullet Perumal, there are 17 previous cases and he has also got several cases for offence under Section 302 IPC. Further, the petitioner has been implicated in this case only based on the confession of A1 and he has been shown to have escaped from the scene of occurrence which, could not have been possible because the entire team of police men were stated to be at the scene of occurrence and the case itself is foisted.

6. Heard the Counsels. Perused the materials placed on record including the order passed in respect of A2/Perumal @ Bullet Perumal, in CrI.O.P.No.4574 of 2019 dated 20.01.2019 against whom there are 17 previous cases.

7. Taking into consideration the facts and submissions of the learned Counsel and the fact that similarly placed accused/A2 has been granted anticipatory bail by this Court in CrI.O.P.No.4574 of 2020 by order dated 20.02.2019, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen (15) days from the date on which the copy of the order is made ready, before **the Judicial Magistrate-I, Kanchipuram, Kanchipuram 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 05.30 p.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, a fresh FIR can be registered under Section 229A IPC.

9. With the above directions, this Criminal Original Petition is ordered.

-sd/-
07/01/2021

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,
NO.I, KANCHIPURAM,

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
SIVAKANCHI POLICE STATION,
KANCHIPURAM DISTRICT.

+1 CC to M/S.K.G.SENTHILKUMAR Advocate on payment of necessary charges SR.NO.214

CRL OP.18202/2020

Date :07/01/2021

TA-22/01/2021

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