

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.01.2021

CORAM

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

CRL.O.P.No.20328 of 2020

V.Vivekanand @ Vivekanandan

... Petitioner

Vs.

State of Tamilnadu
Rep. by The Inspector of police,
T-3, Korattur Police Station,
Tiruvallur District.
Crime No.1234 of 2020

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C.,
praying to enlarge the petitioner on bail in the event of arrest in
Crime No.1234 of 2020 on the file of the respondent police.

For Petitioners : Mr.G.Balachandar

For Respondent : Mr.Shunmuga Rajeshwaran
Government Advocate (Crl.Side)

O R D E R

(The case has been heard through video conference)

The petitioner who apprehends arrest at the hands of the
respondent police for the offences publishable under Section 379 of
IPC in Crime No.1234 of 2020, on the file of the respondent police,
seeks anticipatory bail.

2. The case of the prosecution is that the motor cycle of the
defacto complainant parked behind his house was found missing. Hence
the complaint.

3. The learned Counsel for the petitioner would submit that the
petitioner is an innocent person and two other accused have been
arrested in this crime number and that the alleged motor cycle has
also been recovered from them. He would further submit this is the
third application for anticipatory bail and the earlier application
was dismissed on the ground that the petitioner was involved in Crime

No.609 of 2019 registered for offence under Section 392 of IPC and Cr.No.6 of 2020 registered for offence under Section 379 of IPC and yet another case in Cr.No.888 of 2020 registered for offence under Sections 341, 294 (b), 336, 427, 392, 397 and 506 (ii) of IPC. He would submit that the petitioner was shocked by the submission that he was stated to be involved in other cases and thereby, he had moved an anticipatory bail application for the Crime No.609 of 2019, Crime No.6 of 2020 and Crime No.888 of 2020 before the Court of Sessions at Chennai. When the matter came up before the Court of Sessions, it was submitted that the petitioner is not an accused and thereby, the petitions were dismissed "as unnecessary" and that the copies of the above orders have been filed at page Nos.25, 26 and 27 of the typed set. Apart from that, the petitioner has got only one case against him registered in Crime No.355 of 2018 and the investigation in that case has also been completed and the case is now taken on file in C.C.No.821 of 2020 and posted for questioning before the XV Metropolitan Magistrate, George Town, Chennai. He would submit that the petitioner was also formally arrested and before the P.T. Warrant could be executed, the petitioner was released from jail and that the contraband has been recovered from the arrested accused. He would submit that the petitioner is prepared to abide by any stringent conditions. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Government Advocate (Crl. Side) would submit that the petitioner along with two other accused committed theft of motorcycle belonging to the defacto complainant. He would submit that two other accused were arrested and the motorcycle has been recovered from them. However, he opposed the grant of anticipatory bail to the petitioner.

5. Taking into consideration the facts and circumstances of the case and the fact that the alleged motorcycle has been recovered from the arrested accused, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

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 on which the order copy is made ready, before the learned Judicial Magistrate, Ambattur, 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.

-sd/-

19/01/2021

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,
AMBATTUR.

2.JUDICIAL MAGISTRATE,
THIRUVALLUR DIST.[FOR INFORMATION]

3.THE INSPECTOR OF POLICE,
T-3 KORATTUR POLICE STATION,
TIRUVALLUR

4.THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.G.BALACHANDAR Advocate on payment of necessary charges

CRL OP.20328/2020

Date :19/01/2021

ksm03/02/2021