

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.01.2021

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.20049 of 2020

K.M.Latheef

... Petitioner/Accused

Vs.

The State, represented by,
The Inspector of Police,
C-1, Flower Bazaar Police Station,
Chennai-600 001.
(Crime No. 795 of 2020)

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioners on bail in the event of arrest by the respondent police for the said alleged offences under Section 7 and 9(ii) of Tamil Nadu Prohibition of smoking and Spitting Act, 2003 r/w Sec. 353 of I.P.C in Crime No.795/2020 pending on the file of the respondent police.

For Petitioner : Mr.J.Karthik

For Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner is the sole accused and he apprehends arrest for the alleged offences under Sections 7 and 9(ii) of Tamil Nadu Prohibition of smoking and Spitting Act, 2003 r/w Sec. 353 of I.P.C in Crime No.795/2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that on 22.09.2020, when the police conducted raid in the petitioner's shop, they found that the petitioner was in possession of 20 packs of banned tobacco products. It is further alleged that this petitioner obstructed the police personnel from discharging their duty Hence, a case was registered against the petitioner.

3.The learned counsel appearing for the petitioner submitted that the first anticipatory bail application was dismissed by the learned City Civil Judge, Chennai on 28.10.2020 and this is the second anticipatory bail application.

4. The learned Additional Public Prosecutor would submit that the petitioner has one previous case against him. He further submitted that he is the shop owner, found with 20 packs of banned contrabands and the co accused was released on bail.

5. Taking into consideration the facts of the case, the petitioner is the shop owner and was found in possession of 20 packs of banned Tobacco products, which was seized by the respondent police, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions:

[a] 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 made ready, before the **learned VIII Metropolitan Magistrate at George Town** 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:

[c] 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.

[d] the petitioner shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) by way of Demand Draft to the **Cancer Institute (WIA), East Canal Bank Road, Adyar, Chennai.**

[e] the petitioner shall report before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter as and when required for interrogation.

[f] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[g] the petitioner shall not abscond either during investigation or trial.

[h] 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]**.

[i] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

6. 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 METROPOLITAN MAGISTRATE NO-VIII
GEORGE TOWN.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
C-1 FLOWER BAZAAR POLICE STATION,
CHENNAI-600 001.

5 THE CANCER INSTITUTE (WIA),
EAST CANAL BANK ROAD,
ADYAR, CHENNAI.

CC to M/S J.KARTHIK Advocate on payment of necessary charges

CRL OP.20049/2020

Date :07/01/2021

TA-02/02/2021