



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 02/09/2021

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PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.11426 of 2021

Sivakumar, ... Petitioner/Petitioner/Sole Accused

Vs

State rep by
The Inspector of Police,
Ammapettai Police Station,
Thanjavur District.
Crime.No. 763/2021). ... Respondent/Respondent/Complainant

For Petitioner : M/s. Pitchai Muthu.M.,
Advocate.

For Respondent : Mr.T.Senthilkumar,
Government Advocate (Crl.Side)

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory bail in Crime No. 763 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 4(1)(aaa) r/w 4(1)(g) of TNP Act, Crime No.763 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that on 22.06.2021, when the police party was in patrol, they found 240 litres of Ooral in the petitioner's Pumbset near Chenpagapuram, Natham Village. On seeing the police party, he escaped from the scene. Therefore, this case came to be registered.



3.The learned counsel for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. Therefore, he seeks anticipatory bail to the petitioner.

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4.The earlier anticipatory bail application filed by the petitioner in Crl.O.P(MD).No.8845 of 2021 was dismissed by this Court on 06.07.2021 on the ground that the petitioner was having several previous cases. When this application came up for hearing on 24.08.2021, the learned Government Advocate submitted that the petitioner is not having any previous case and produced the instruction given by official concerned. With regard to the different instructions given by the respondent police, this Court directed the Superintendent of Police, Thanjavur to file a report as to the correct facts on the antecedents of the petitioner.

5.Accordingly, a status report has been filed by the Superintendent of Police, Thanjavur dated 31.08.2021 that apart from the present case registered by the Ammapettai Police Station, the petitioner has not involved in any other case. The relevant paragraph from the status report is extracted as follows:-

"5.It is submitted that I have verified the concerned station records in this regard. I came to know that one case in Ammapettai P.S.Cr.No.763/2021 u/s 4(1)(aaa) r/w. 4(1)(g) of TNP Act, is pending against him. It has been inadvertently informed before the Court on 06.07.2021 that several previous cases including two Tamil Nadu Prohibition Act cases are pending against him. It was not wanton or will full one. The Inspector of Police Ammapettai respondent has been suitably instructed furnish the details before the Court through the Government Advocates without any mistakes. I will ensure that such mistakes is not repeated in future."

This status report of the Superintendent of Police, Thanjavur, dated 31.08.2021 stands recorded.

6.Considering the facts and circumstances of the case and also the fact that the petitioner has no previous case pending against him, this Court is inclined to grant anticipatory bail to the petitioner.

7.Accordingly, this criminal original petition is allowed and 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, Papanasam, Thanjavur 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 learned Magistrate concerned and on further



conditions 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 Aadhaar card or bank pass book to ensure their identity.

[b]the petitioner shall report before respondent police daily at 10.30 am., until further orders.

[c]the petitioner shall not tamper with the 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 absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
02/09/2021

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/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



TO

1. The Judicial Magistrate, Papanasam, Thajavur District.
2. Do Through The Chief Judicial Magistrate,
Thanjavur District at Kumbakonam.
3. The Superintendent of Police, Thanjavur
4. The Inspector of Police,
Ammapettai Police Station, Thanjavur District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER IN
CRL OP(MD) No.11426 of 2021
Date : 02/09/2021

TR/PN/SAR-II(16.09.2021) 4P 6C