



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 03/09/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI
CRL OP(MD) . No.12092 of 2021

WEB COPY

Mathialagan,

... Petitioner / Sole Accused

Vs

State Rep. by
The Inspector of Police,
Papanasam Police Station,
Thanjavur District
Cr No. 568/2021.

... Respondent / Complainant

For Petitioner : M/s. Anandan.B,
Advocate.

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

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

PRAYER :-

For Anticipatory bail in Crime No. 568 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 417 and 420 of IPC r/w 34 of National Medical Commission Act, 2009, in Crime No.568 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that the de-facto complainant, who is the Chief Civil Physician at Government Hospital, Papanasam, has given a complaint that one Mathialagan, who is not a registered medical practitioner has been providing allopathy medical treatment to the general public. Therefore, on 20.06.2021 at about 12 noon, the Joint Director of Health Care Department, who conducted surprise inspection, found that the accused was in possession of allopathy medicines and injections. Hence, the case came to be registered.

3.The learned counsel for the petitioner submitted that the petitioner is an innocent and he has been falsely implicated in this case. He further submitted that the petitioner is a traditional Doctor who treats only fractures and only prescribes native medicines. He further submitted that the petitioner is ready to file an undertaking affidavit stating that he will not indulge any offence



in future. Therefore, he seeks anticipatory bail to the petitioner.

4.The learned Government Advocate (Criminal side) for the respondent would submit that this is the second anticipatory bail petition, earlier anticipatory bail petition was dismissed by this Court in Crl.O.P(MD).No.8792 of 2021 on 06.07.2021. He further submitted that one similar case is pending against the petitioner in Crime No.78 of 2018 before the respondent police station.

5.The learned counsel for the petitioner is directed to advise the petitioner not to practise allopathy system of medicine without qualification and to file an affidavit before the trial Court and respondent police, as undertaken by him.

6.Considering the facts and circumstances of the case and nature of allegation levelled as against this petitioner and his willingness to file an undertaking affidavit that he would not indulge in such offence, 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, 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 a.m., until further orders.

(c)The petitioner is directed to file an undertaking affidavit stating that he will not indulge this kind of offence in future before the trial Court as well as before the respondent police.

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

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

[f]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]**.

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

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/ TRUE COPY /

/ /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, THANJAVUR DISTRICT.
- 2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR @ KUMBAKONAM.
- 3.THE INSPECTOR OF POLICE,
PAPANASAM POLICE STATION,
THANJAVUR DISTRICT
- 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER IN
CRL OP(MD) No.12092 of 2021
Date :03/09/2021

SB/SKN/SAR-III/24.09.2021/3P/5C