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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 29/10/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD)Nos.12403 and 12404 of 2021

GOPINATH @ GOPI

... PETITIONER/SOLE ACCUSED
(IN BOTH THE PETITIONS)

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE,
TOWN WEST POLICE STATION, THANJAVUR,
THANAJVUR DISTRICT.
CRIME NO.110 OF 2020.

... RESPONDENT / COMPLAINANT
IN CRL OP(MD) No.12403 of 2021

THE STATE REP.BY,
THE INSPECTOR OF POLICE,
TOWN WEST POLICE STATION, THANJAVUR,
THANAJVUR DISTRICT.
CRIME NO.1425 OF 2021.

... RESPONDENT / COMPLAINANT
IN CRL OP(MD) No.12404 of 2021

For Petitioner : M/s.R.Maheswaran, Advocate
(in both Petitions)

For Respondent : M/s.P.Kottaichamy
Government Advocate (Crl.Side)
(in both Petitions)

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

COMMON PRAYER :-

For Anticipatory Bail in Crime Nos. 110 of 2020 and 1425 of 2021 on the file of the Respondent Police.

COMMON ORDER : The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences under Sections 8(c) r/w 20(b), (ii) (B) and 25 of NDPS Act, 1985 in Crime No.110 of 2020 in Crl.O.P.(MD)No.12403 of 2021 and for the alleged offence under Section 229(A) IPC in Crime No.1425 of 2021 in Crl.O.P.(MD)No.12404 of 2021, respectively, on the file of the respondent police, seeks anticipatory bail.



2.The allegation against the petitioner is that he was found in illegal possession of 1.20kgs of Ganja.

3.Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Crl. Side) appearing for the respondent.

4.It appears that the petitioner was arrested on 28.02.2021 in Crime No.110 of 2020 that he was in possession of 1.20 kgs of Ganja. Therefore, the petitioner filed a petition seeking for bail before the learned Additional District Judge cum Special Court under Essential Commodities Act, Thanjavur. Considering the pandemic situation, the Special Court granted interim bail to the petitioner on the same day for the period of three weeks and directed him to surrender before the trial Court on 29.03.2021. Accordingly, he was released on 29.02.2021. As per the interim order, the petitioner ought to have surrendered before the concerned Court on 29.03.2021, but he failed to surrender. Therefore, the Special Court issued a warrant of arrest on 29.03.2021 against the petitioner and for that, a case in Crime No.1425 of 2021 was also registered for the offence under Section 229(A) of IPC.

5.Subsequently, the petitioner has moved the applications for anticipatory bail in Crime Nos.110 of 2020 and 1425 of 2021 on the ground that he met with an accident on 27.03.2021 and he suffered fracture in his leg. Hence, he was admitted as an inpatient in the Santhe Multi-Speciality Hospital, Thanjavur and took treatment for more than two months. He has also relied on the medical records issued by one Dr.Balaji, Santhe Multi-Speciality Hospital, Thanjavur and therefore, he sought for anticipatory bail in Crime No.110 of 2020 and also a subsequent case registered in Crime No.1425 of 2021, suppressed over the manner in which the petitioner obtained interim bail before the trial Court on 29.02.2021. Thereafter, the petitioner has taken a plea that he sustained major accident and also admitted in the hospital for nearly two months.

6.This Court found something wrong in the medical certificate produced by the petitioner and directed the investigating agency to ascertain the genuineness of the medical certificate relied on by the petitioner by order dated 01.09.2021. As per the order, the respondent police filed a report before this Court stating that it is a false certificate and the Doctor, who was issued the certificate has also given a statement that it is issued only for leave purpose. The said statement given by the Doctor, reads as follows:-

To

whomsoever it may concern.

The document I have issued for Mr.L.Gopinath, 27/m, on 19.08.2021 is for his leave purpose only. He can walk now / he came as outpatient to our hospital for this purpose.



So he cannot use as outpatient prescription for court excuse / legal purpose. At any lost, he cannot give excuse for attending legal discussions in Court.

Thanking you,

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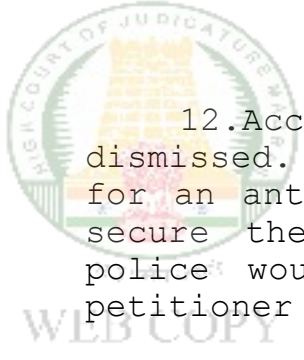
7.Considering the manner in which the interim anticipatory bail order has been obtained by the petitioner and the manner in which the petitioner has obtained the Certificate from the Doctor, this Court by earlier dated 09.09.2021 directed the registry to initiate the proceedings as against the petitioner under Section 340 of Cr.P.C and also to mark this order copy to the Tamil Nadu Medical Council, Chennai to take appropriate action against Dr.C.Balaji, Santhe Multi-Speciality Hospital, Thanjavur.

8.In response to the same, Mr.N.Sathish Babu, learned counsel for the Medical Council has appeared before this Court and submitted that they have received the order copy only on 28.10.2021 and they are initiating the disciplinary proceedings as against the Doctor, who has issued the false certificate.

9.It is not only in this case, such a false certificate has been issued in yet another case, where the person has been facing a serious allegation, has filed an application before this Court in the strength of the false certificate issued by another Doctor from Kanyakumari District. The MBBS graduates, who are practising as Doctors are taking it as a privilege that they can issue any type of certificate for the purpose of leave without realising that it is an offence under the Indian Penal Code. This Court is giving some respects to the Doctors and relying on the medical certificates for taking certain decision on the application filed before this Court based on the health condition. If the Doctors are stooping to this level of issuing false certificate, this Court may not be in a position to rely upon any certificate issued by any Doctors. It is the duty of the Medical Council to eradicate this type of impression created by some Doctors and this Court expects that the necessary action should be taken by the appropriate authority and also shall ensure that these type of Doctors, who are the members of the council do not indulge in such activities in future.

10.The learned Government Advocate (crl.side) has also furnished the details that this petitioner has involved in fourteen cases, out of which, six cases are still pending.

11.Considering the bad antecedents of the petitioner, the manner in which he obtained the interim anticipatory bail, the manner in which he obtained the false certificate and his conduct of filing the application relying on a false certificate before this Court, this Court feels that the petitioner is not entitled for an anticipatory bail.



12. Accordingly, these Criminal Original Petitions are dismissed. Whenever this Court finds that the person is not entitled for an anticipatory bail, it is the duty of the Police Officer to secure the petitioner and this Court hopes that the respondent police would diligently take appropriate action as against the petitioner and arrest him in both cases.

sd/-
29/10/2021

/ TRUE COPY /

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

CP

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 Inspector of Police,
Town West Police Station,
Thanjavur,
Thanjavur District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ORDER
IN
CRL OP (MD) Nos. 12403
and 12404 of 2021
Date : 29/10/2021

SP/JC/SAR III/18/11/2021/4P/3C