



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2022

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Cr1.O.P.No.653 of 2022

Kailash Kumar

... Petitioner

Vs.

State rep. By,
Inspector of Police,
Mallur Police Station
Salem District
(Crime No.447 of 2021)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 438 of Cr.P.C., praying to enlarge the petitioner on bail in the event of arrest by the respondent Police in Crime No.447 of 2021 on the file of the Respondent police.

For Petitioner : M/s.P.Muthamizhselvakumar

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

The petitioner, who apprehends arrest for the alleged offence under Section 328 IPC r/w. Section 7 and 20(1) of Cigarettes and other Tobacco Products Act-2003, in Crime No.447 of 2021, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant is the Inspector of Police and during the vehicle check up, the defacto complainant stopped the vehicle viz., Hundai Santro Car, which was belonged to A3 (petitioner). A1 is the driver of the petitioner. The respondent police could not stop the car, so the respondent police chased the car and caught the vehicle and found 870 colour bundle. The White coloured bundle is Prohibited Hans Tobacco products. He arrested the driver (A1) and seized the same. Hence, the complaint.



3.The learned counsel appearing for the petitioner submits that the petitioner has not been committed any such offences as alleged by the prosecution and he has been falsely implicated in this case. He further submits that the petitioner's arrest is only based on the confession given by the A1. However, on instructions, the learned counsel further submits that the petitioner, on his own volition, is ready and willing to contribute a sum of Rs.30,000/- (Rupees Thirty Thousand Only) to any charitable purpose as may be directed by this Court and he prays for grant of anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor objected that the petitioner only supplied the prohibited products to A2. He further submits that the total quantity of Gutkha products is about 870 kgs and worth about Rs.82,000/-. Therefore, he vehemently opposed to grant anticipatory bail to the petitioner.

5. Considering the facts and circumstances of the case and also considering the submissions made by both counsel, and also the fact that the petitioner has wilfully and on his own volition agreed to contribute a sum of Rs.30,000/- for charitable purpose, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6. Accordingly, the Criminal Original petition is allowed. The petitioner is ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen (15) days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned Judicial Magistrate Court No-VI, Salem, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties, (one surety must be a local surety) 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 and on further conditions that:

[a] the petitioner is directed to deposit a sum of Rs.30,000/- (Rupees Thirty thousand only) to the Registered Advocate Clerk's Association, Chennai District within a period of fifteen (15) days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier and shall produce the said receipt before the Court below;

[b] the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;



(c) the petitioner shall report before the respondent police on Wednesday at 10.30 a.m., for a period of four weeks and thereafter, as and when required for an interrogation;

[d] the petitioner shall not tamper with 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 has been imposed and the petitioner is 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]; and;

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

-sd/-
12/01/2022

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,
NO.VI, SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
MALLUR POLICE STATION,
SALEM DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.



5 THE REGISTERED ADVOCATE
CLERK ASSOCIATION, CHENNAI DISTRICT.

CC to M/S P.MUTHAMIZHSELVAKUMAR Advocate on payment of necessary
charges.

CRL OP.653/2022

Date :12/01/2022

JPA 24/01/2022