

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Fourteenth day of February Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice R. PONGIAPPAN

CRIMINAL ORIGINAL PETITION No.3453 of 2022

KATTIYAPPAN

[PETITIONER / ACCUSED]

Vs

STATE REP BY
THE INSPECTOR OF POLICE
ERIYUR POLICE STATION,
DHARMAPURI DISTRICT.
CRIME NO.133 OF 2021.

[RESPONDENT]

For Petitioner : M/S. N.PONRAJ Advocate

For Respondent : MR.S.S.SANTHOSH, Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest for the alleged offences under Sections 4(1)(a) r/w 4(1-A) of Tamil Nadu Prohibition Act (Transport) in Crime No.133 of 2021, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that when the respondent police and his subordinates were in regular patrol, they found that the petitioner was in illegal transportation of 180ml D.K. Double Whisky 240 paper pockets Bejois Brandy and 5 bottles of 180 Copper Barrel of TASMAL with poisonous odour. Hence the complaint was registered by the respondent police.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has not committed any such offences as alleged by the prosecution. He further submitted that the petitioner been falsely implicated in this case and he is no way connected with the alleged occurrence. Hence, he pleads for grant of anticipatory bail to the petitioner.

4.The learned Government Advocate (Criminal Side) appearing for the respondent police raised objection stating that as of now, the investigation is pending. He also submits that the properties which are involved during the alleged occurrence have been recovered and they are in custody of the respondent police and no previous case as against the petitioner.

5. Submissions made by the learned Counsels appearing on either sides are considered.

6. The respondent police registered a case against the petitioner for the offence punishable under Sections 4(1)(a) r/w 4(1-A) of Tamil Nadu Prohibition Act. Admittedly, the petitioner is the first offender and the properties which are required for completing the investigation have already been recovered by the respondent police.

7. Taking note of all the above said aspects into consideration and having regard to the nature of the offence committed by the petitioner, this Court came to the conclusion that for the completion of investigation, custodial interrogation of the petitioner may not be necessary in this case. Hence, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8.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 of receipt of a copy of this order, before the learned Judicial Magistrate, Pennagaram, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five 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 and on further condition that:

(a) the petitioner and the sureties shall affix his 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;

(b) the petitioner shall report before the respondent police daily at 10.00 a.m., for a period of 20 days and thereafter as and when required for interrogation.

(c)the petitioner shall not tamper with 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]; and;

(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-
14/02/2022

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,
PENNAGARAM.

2 THE CHIEF JUDICIAL MAGISTRATE
DHARMAPURI [FOR INFORMATION].

3 THE INSPECTOR OF POLICE,
ERİYUR POLICE STATION,
DHARMAPURI DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S. N.PONRAJ Advocate on payment of necessary charges
SR.NO.2331

CRL OP.3453/2022

Date :14/02/2022

JPA 18/02/2022