



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Sixteenth day of February Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice R. PONGIAPPAN

CRIMINAL ORIGINAL PETITION No.3745 of 2022

M.DIWAKAR

[PETITIONER / ACCUSED]

Vs

THE STATE REP BY
THE STATION HOUSE OFFICER,
ODIANSALAI POLICE STATION,
U.T OF PUDUCHERRY.
(CRIME NO.4/2022)

[RESPONDENT]

For Petitioner : MR.PRAKASH ADIAPADAM FOR M/S.A.PRAKASH Advocate

For Respondent : MR. V.BALAMURUGANE, Public Prosecutor for Puducherry

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 8(c), 20(b)(ii)(B) of Narcotic Drugs and Psychotropic Substances Act, 1985 and Section 77 of Juvenile Justice (Case and Protection of Children) Act 2015, in Crime No.4 of 2022, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that on information, the respondent police conducted an inspection and they found that the petitioner and other accused were selling ganja near Vanarapet bridge and seized 128 grams of ganja. 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 based on the co-accused confession statement, the petitioner has been arrayed as accused. 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 on seeing the respondent police the petitioner flew away from the scene of occurrence and the properties which are involved during the alleged occurrence have been recovered and they are in custody of the respondent police.

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

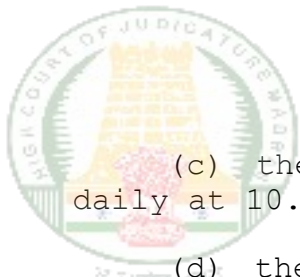
6. The respondent police registered a case against the petitioner for the offence punishable under Sections 8(c), 20(b)(ii)(B) of Narcotic Drugs and Psychotropic Substances Act, 1985 and Section 77 of Juvenile Justice (Case and Protection of Children) Act 2015. Admittedly, the properties which are required for completing the investigation have already been recovered by the respondent police and it is not in a commercial quantity. Further based on the confession statement given by the co-accused, the petitioner has been implicated as accused in this case.

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 Chief Judicial Magistrate, Pondicherry, 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 is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) to the credit of the Registered Advocate Clerk Association, Pondicherry District within a period of two weeks from the date of receipt of a copy of this order and shall produce the said receipt before the Court below.

(b) 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;



(c) the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders.

(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 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;

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

-sd/-
16/02/2022

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 CHIEF JUDICIAL MAGISTRATE
PONDICHERRY.

2 THE STATION HOUSE OFFICER,
ODIANSALAI POLICE STATION,
U.T OF PUDUCHERRY.

3 THE PUBLIC PROSECUTOR
PUDHUCHERRY.



4 THE REGISTERED
ADVOCATE CLERK ASSOCIATION,
PONDICHERRY.

WEB COPY

+1CC to M/S.E.ANBARASAN Advocate on payment of necessary charges
SR.No.2397

CRL OP.3745/2022

Date :16/02/2022

CSK 18/02/2022