



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Seventh day of April Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice R. PONGIAPPAN

CRIMINAL ORIGINAL PETITION No.7337 of 2022

G.THIRUMALAI

[PETITIONER / ACCUSED]

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
KANCHI TALUK POLICE STATION,
KANCHIPURAM,
KANCHIPURAM DISTRICT.
CR.NO.35 OF 2022.

[RESPONDENT]

For Petitioner : M/S K.R.SAMRATT Advocate

For Respondent : M/S.LEONARD ARUL JOSEPH SELVAM,
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 at the hands of the respondent police for the alleged offence punishable under Sections 328 of IPC and Sections 7, 9(2) of Cigarette and other Tobacco Products Act 2003, in Crime No.35 of 2022 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that during the relevant point of time, the petitioner along with other accused were found in possession of 116kg HANS Pan Masala, 150kg VIMAL Pan Masala, 15kg Cool Lip and 50kg V-1 Tobacco products. Hence, the Law Enforcing Agency registered a case against the petitioner.

3. The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has not committed any such offences as alleged by the prosecution. He further submits that the petitioner being the owner of the godown, he leased out the property to other accused by believing the words given by them that



the godown used for legal purpose. Thereafter after breach their words, the other accused in this case committed the offence as alleged by the prosecution. Further, the petitioner is not having any knowledge about the possession of contraband by the accused Nos.1&2. Except to lease out the godown to A1 & A2, the petitioner has not committed any offence. As of now, the property which were possessed by the other accused are recovered. He further submits that the petitioner is ready to abide any conditions imposed by this Court and thereby 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 the investigation is pending. However, he admits that as of now the contraband which were possessed by the other accused are all recovered. In other wise, the petitioner has been arrayed as accused upon the confession statement given by the other accused.

5. Submissions made by the learned counsels appearing on either side are considered.

6. Admittedly, no contraband has been recovered from the petitioner. The only allegation as against the petitioner is that the godown wherein the contraband found in possession, belongs to the petitioner. Therefore, whether the petitioner is having knowledge about the contraband or not, is a matter for trial. More than that as of now, the contraband recovered and other accused are released on bail.

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-I, Kancheepuram**, 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 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;



(b) the petitioner shall report before the respondent police on every 10.00 a.m., for a period of 30 (thirty) days and thereafter as and when required for interrogation.

WEB COPY

(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/-
07/04/2022

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.I, KANCHEEPURAM.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.



4 THE INSPECTOR OF POLICE
KANCHI TALUK POLICE STATION,
KANCHIPURAM,
KANCHIPURAM DISTRICT.

WEB COPY

+1 CC to M/S K.R.SAMRATT Advocate on payment of necessary
charges SR.NO.5450

CRL OP.7337/2022

Date :07/04/2022

TA-12/04/2022