

Crl.O.P.No.8122 of 2023

S.SOUNTHAR, J.

The petitioner, who apprehends arrest at the hands of the respondent police for the offence punishable under Section 279 I.P.C. and 4(1)(aaa) and 4(1-A) of Prohibition Act, in Crime No.76 of 2023 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that during regular inspection / patrol check conducted by the respondent police, they found that the petitioner was illegally transporting 200 Litres of Pondy ID Arrack in a Tata Indica car bearing Reg. No.TN50 D 6235. Hence the complaint.

3. The learned Counsel for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. He would further submit that the petitioner is ready and willing to furnish sufficient sureties and to abide by any stringent condition that may be imposed by this Court. He would also submit that without prejudice, the petitioner is prepared to deposit a sum of Rs.5,000/- as a non-refundable

deposit to "**the District Revenue Officer, Nagapattinam**". Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Government Advocate (Criminal Side) for the respondent would submit that the petitioner was illegally transporting 200 Litres of Pondy Arrack in a Tata Indica car bearing Reg. No.TN50 D 6235. He added that this is the second anticipatory bail petition. Earlier petition filed by the petitioner in Crl.O.P.No.6043 of 2023 was dismissed by this Court on 17.03.2023 on the ground that the petitioner was having thirteen previous cases of similar nature. However, he vehemently opposed to grant anticipatory bail to the petitioner.

5. In order to curb the illegal activities of transporting ID Arrack and also considering the fact that the petitioner himself undertakes to deposit a sum of **Rs.5,000/- (Rupees Five Thousand only)** as a non-refundable deposit to "**the District Revenue Officer, Nagapattinam District,**" without prejudice to his rights and contentions, this Court is inclined to grant anticipatory bail to the petitioner. However, it is made clear that merely

because the petitioner deposits the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

6. Taking into consideration the facts and the submissions of both sides, this Court grants anticipatory bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is directed to **deposit a sum of Rs.5,000/- (Rupees Five Thousand only), by way of Demand Draft/RTGS/NEFT to the "District Revenue Officer, Nagapattinam"**, on such deposit and production of proof, 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 on which the order copy made ready, before the **learned Judicial Magistrate, Nannilam**, 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, failing which, the petition for anticipatory bail shall stand dismissed 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 Magistrate 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 10.30 a.m. for a period of two weeks 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]**.

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

8. This Criminal Original Petition is ordered accordingly.

04.05.2023

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