



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.02.2023

PRESENT

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P(MD)No.2034 of 2023

WEB COPY

Muthukrishnan @ Balu

...Petitioner/Sole Accused

-vs-

The State represented by
The Inspector of Police,
Prohibition Enforcement Wing (PEW),
Alangudi, Pudukottai District.
(in Cr.No.59 of 2023)

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the petitioner on bail in the event of his arrest by the respondent Police with respect to Cr.No.59 of 2023.

For Petitioner	: Mr.N.Kamesh, Advocate
For Respondent	: Mr.K.Sanjai Gandhi
	Government Advocate (Crl.side)

O R D E R

The petitioner, who apprehends arrest at the hands of the respondent Police for the offences punishable under Sections 4(1)(a), 4(1)(g) r/w 1(A) of TN Prohibition Act, 1937 in Crime No.59 of 2023 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant, is that the petitioner was found to be in possession of 300 kgs of fermented wash and 47 liters of Arrack in his house. Hence, the case.

3.The learned Counsel for the petitioner would submit that the petitioner is an innocent and a false complaint has been given. He would also submit that the petitioner has not committed any offence, as alleged by the prosecution. He would also submit that the petitioner is ready to abide by any stringent conditions, that may be imposed on him. He would pray for anticipatory bail to the petitioner.

4.The learned Government Advocate (Crl.side) would submit that the petitioner was found to be in possession of 300 kgs of Ooral and 47 mhd in the form of Arrack in his house, worth of Rs.38,000/-. He would

<https://www.mhdcourt.org/>



also submit that the petitioner has no previous case pending against him. However, considering the gravity of offence, he would strongly oppose to grant anticipatory bail to the petitioner.

5. At this juncture, the learned Counsel for the petitioner would submit that the petitioner is ready to deposit Rs.20,000/- as non-refundable deposit to any welfare scheme of the Government.

6. Heard the learned Counsel. Taking into consideration the facts and submissions and also on perusing the materials available on record including the F.I.R., this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7. Accordingly, the petitioner shall pay a sum of Rs.20,000/- to the credit of The Dean/Medical Officer, Pudukottai Medical College Hospital, without prejudice to his rights and contentions before the trial Court and produce the receipt/acknowledgment before the learned Judicial Magistrate, Alangudi, at the time of furnishing sureties.

8. Merely, because the petitioner has deposited 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.

9. On production of proof for payment, 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, Alangudi, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten 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 everyday at 10.30 a.m., for a period of two weeks and thereafter, every Saturday at 10.30 am until further orders.

[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 absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
02/02/2023

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

1. THE JUDICIAL MAGISTRATE, ALANGUDI.
2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
PUDUKOTTAI DISTRICT.
3. THE INSPECTOR OF POLICE,
PROHIBITION ENFORCEMENT WING (PEW),
ALANGUDI, PUDUKOTTAI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO

THE DEAN/MEDICAL OFFICER,
PUDUKOTTAI MEDICAL COLLEGE HOSPITAL,
PUDUKOTTAI.

+1 CC to M/s.N.KAMESH, Advocate (SR-1709[I] dated 02/02/2023)

ORDER
IN
CRL OP(MD) No.2034 of 2023
Date :02/02/2023

RK/SSS/SAR-1 (13/02/2023) 4P/7C