



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Wednesday, the Twenty Third day of November Two Thousand Sixteen

PRESENT

The Hon`ble Mr Justice S.VAIDYANATHAN

CRL OP(MD) No.22124 and 21873 of 2016

SHAJI,

... PETITIONER / ACCUSED No.2
IN CRL OP(MD)NO.22124/2016

1 SATHEESH KUMAR

2 SHAJI

... PETITIONERS/ACCUSED NO.1 & 2
IN CRL OP(MD)NO.21873/2016

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
P.E.W. NAGERCOIL,
KANYAKUMARI DISTRICT.
IN CR.NO.560 OF 2016

... RESPONDENT / COMPLAINANT
IN BOTH THE PETITIONS

For Petitioner : M/S.M.SANKAR Advocate IN CRL OP(MD)NO.22124/2016
: MR.S.RAMAKRISHNAN, Advocate
IN CRL.OP(MD)NO.21873/2016

For Respondent : MRS.S.PRABHA Govt. Advocate (Crl. Side)
IN BOTH THE PETITIONS

PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

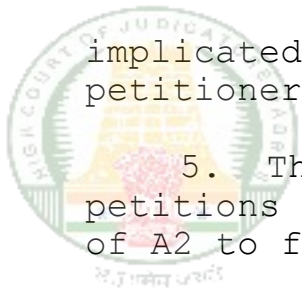
The petitioners / accused Nos.1 and 2, who were arrested on 29.10.2016 for the offences punishable under Sections 4(1-A) & 4(1)(b) of Tamil Nadu Prohibition Act in Crime No.560 of 2016 on the file of the respondent police, seek bail.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.side), who would submit that in respect of A2, two petitions have been filed by different advocates.

3. The case of the prosecution is that the petitioners were found in possession of 10 litres of arrack, kept for illegal sale.

<https://hcservices.ecourts.gov.in/hcservices/>

4. The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have been falsely



implicated in this case. He would further submit that the petitioners are in judicial custody from 29.10.2016.

5. The learned counsel appearing for A2 in these two petitions stated that they have been instructed by the relative of A2 to file applications for anticipatory bail.

6. The act of the Advocates in filing petitions, based on the instructions given by the relatives of the accused is highly deprecatative.

7. At this juncture, the learned counsel for the petitioners in Crl.O.P.(MD).No.21873 of 2016 seeks permission of this Court to withdraw this petition in respect of the second petitioner and he has also made an endorsement to that effect.

8. In view of the endorsement made by the learned counsel for the petitioners in Crl.O.P.(MD).No.21873 of 2016, this petition is dismissed in respect of the second petitioner.

9. Taking note of the fact that the petitioners/A1 and A2 are in judicial custody from 29.10.2016, this Court is inclined to grant bail to the petitioners. Accordingly, **the petitioners/A1 & A2 are ordered to be released on bail** subject to the following conditions:

(i) the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) each with two sureties, each for a like sum to the satisfaction of the Judicial Magistrate, Boothapandi, Kanyakumari District;

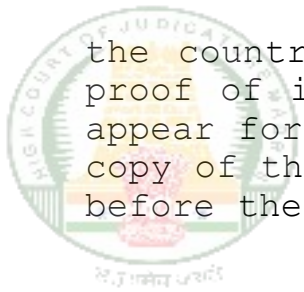
(ii) the petitioners are directed to appear before the respondent police daily at 10.30 a.m. until further orders;

(iii) the petitioner shall not tamper with the evidence or witness either during investigation or trial;

(iv) the petitioner shall not abscond either during investigation or trial;

(v) on breach of any of the aforesaid conditions, the 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 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]**.

10. In order to be vigilant in preventing more than one lawyer to appear for the same accused for the very same crime, Registry is directed to ensure that whenever bail petitions are filed on behalf of the accused, the particulars of the person, who instructs the Lawyer to file such petitions, namely, photo ID proof and the present address have to be furnished along with the supporting affidavit. In case, the person instructing is outside



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the country or not able to meet the lawyer, he can forward his proof of identity through email to the counsel, who is going to appear for the accused. In such an event, instead of affidavit, a copy of the e-mail reflecting the e-mail address need to be filed before the Registry enabling them to number the application.

sd/-
23/11/2016

/ TRUE COPY /

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

akv/ar
TO

- 1 THE JUDICIAL MAGISTRATE
BOOTHAPANDI, KANYAKUMARI DISTRICT
- 2 THE CHIEF JUDICIAL MAGISTRATE
KANYAKUMARI DISTRICT
- 3 THE INSPECTOR OF POLICE,
P.E.W. NAGERCOIL, KANYAKUMARI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- 5 THE OFFICER INCHARGE,
DISTRICT PRISON, NAGERCOIL, KANYAKUMARI DISTRICT

+1. CC to M/S.M.SANKAR Advocate SR.No.71915
+1CC to Mr.S.RAMAKRISHNAN Advocate Sr.No.71856

GJM/SK/SKN/SAR-I-30.11.16-3p-8C

ORDER
IN
CRL OP(MD) No.22124 and
21873 of 2016
Date :23/11/2016