

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.05.2020

CORAM

THE HONOURABLE MR.JUSTICE **M.NIRMAL KUMAR**

Crl.O.P.No.7667 of 2020

Nithiyanandham

S/o.Vishvanadhan,

Kamalatheru, Jambuvandavodu,

Thiruvarur District.

.... Petitioner

Vs.

State represented by

The Inspector of Police,

Muthupettai Police Station,

Thiruvarur.

.... Respondent

Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No.979 of 2020 pending investigation on the file of the respondent/police.

For Petitioner : Mr.M.Jaikumar

For Respondent : Mr.Karthikeyan
APP

ORDER

The petitioner was arrested and remanded to judicial custody on 30.04.2020 for the offence punishable under Sections 4(1)(aaa), 4(1)(g), 4(1-A) of the Tamil Nadu Prohibition Act, 1937, in Crime No.979 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the respondent police have conducted prohibition raid on 30.04.2020 at 15.00 hours. On seeing the police, the petitioner attempted to run, however, the police arrested the petitioner and seized 55 litres of illicit arrack kept by the petitioner for sale. Since no witness was present at the scene of occurrence, the police prepared the seizure mahazar in presence of two policemen. Hence, this complaint.

3. The learned counsel appearing for the petitioner would submit that the seizure in this case was prepared in presence of two policemen. According to the learned counsel for the petitioner, as per Section 32 of the TNP Act, any illicit arrack is seized under this Section by any officer or person, such officer or person may, in the presence of the Prohibition Officer or any Police Officer not below the rank of Inspector take samples or destroy the seized arrack. Further he would submit that the petitioner is in

judicial custody from 30.04.2020 and hence, he seeks bail for the petitioner.

The petitioner has no bad antecedents.

4. The learned Additional Public Prosecutor (Crl. Side) would submit that the petitioner is in possession of 55 litres of arrack illegally brewed. He admits there is no previous case against the petitioner. He opposed for grant of bail to the petitioner.

5. Taking into consideration the nature of allegations against the petitioners in the FIR and also taking note of the fact that the petitioner is in judicial custody from 30.04.2020, this Court is inclined to grant bail to the petitioner, subject to the following conditions :

(a) the petitioner shall execute his own bond for a sum of Rs.10,000/- (Rupees ten thousand only) before the Superintendent of the concerned prison, in which the petitioner has been confined on his release;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate on or before 01.07.2020, failing which the bail granted by this Court shall stand

dismissed automatically;

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(d) the petitioner shall not commit any offences of similar nature;

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

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

(g) on breach of any of the aforesaid conditions, the learned Judicial 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];

(h) if the accused thereafter absconds, a fresh FIR can be registered

under Section 229A IPC.

19.05.2020

nsd

Index: Yes/No

Speaking order/Non-speaking order

To

1. The Chief Judicial Magistrate,
Tiruvarur.
2. The Judicial Magistrate,
Thiruthuraipoondi.
3. The Inspector of Police,
Muthupettai Police Station, Tiruvarur.
4. The Public Prosecutor,
High Court, Madras.
5. The Superintendent of Prison,
Mannarkudi Sub-Jail,
Tiruvarur.

The seal of the Madras High Court is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital of Ashoka in front of it. The text "HONORABLE JUDICATURE MADRAS" is written in a green circle around the central image. Below the seal, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

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M.NIRMAL KUMAR.J.

nsd



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