

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.05.2020

CORAM:

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

CRL.O.P.No.7683 of 2020

Elancheliyan

... Petitioner

Vs.

The State rep. by
Inspector of Police,
Muthupettai Police Station,
Thiruvarur District.
(Crime No.1163 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C., praying, to enlarge the petitioner on bail in Crime No.1163 on the file of Inspector of Police, Muthupettai Police Station, Thiruvarur District.

For Petitioner : Mr.Swami Subramanian

For Respondent : Mr.S.Karthikeyan,
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 11.05.2020 for the offences punishable under Sections 4(1)(a) r/w 4(1-A) of TNP Act in Crime No.1163 of 2020 on the file of the respondent police, seeks

bail.

2. The case of the prosecution is that on 11.05.2020 at about 12.30 p.m., the defacto complainant viz., the Sub Inspector of Police was on patrol duty. On secret information, he found that the petitioner herein illegally found in possession of 20 brandy bottles, in which some of them in opened on enquiry they found that the petitioner herein purchased the bottles from the Government shop and added tobacco essence for more giddiness to the consumers and the police seized the contraband. Hence the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that as per Section 32 of Tamil Nadu Prohibition Act seized and destruction of the illicit brandy bottles, has not been followed. The learned counsel for the petitioner would further submit that the respondent who conducted the case is a Special Sub Inspector of Police. On instructions, he would further submit that the petitioner is ready to deposit an amount of Rs.10,000/- to the Chief Minister Public Relief Fund, Tamil Nadu. Therefore, he prays for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that when the Special Sub Inspector of Police was on patrol duty, on secret information, he found that the petitioner herein illegally found in possession of 20 brandy bottles. He would further submit that the illicit brandy bottles were seized and destroyed after informing and getting permission from the Inspector of Police and there is no illegality in the seizure and in destroy. He would fairly submit that there is no previous case as against the petitioner.

5. Taking into consideration the facts of the case and the submissions made by the learned counsel and also taking note of the fact that the petitioner has come forward to deposit an amount of Rs.10,000/- (Rupees ten thousand only) to the Chief Minister Public Relief Fund, Tamil Nadu, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) the petitioner shall deposit a sum of Rs.10,000/- (Rupees ten thousand only) to the Chief Minister Public Relief Fund, Tamil Nadu, and on such deposit the petitioner is ordered to be released on bail on executing 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 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.

6. With the above directions, this Criminal Original Petition is ordered.

19.05.2020

Internet : Yes / No
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M.NIRMAL KUMAR, J.
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To

1. The Judicial Magistrate, Thiruthuraipoondi, Thiruvarur District.
2. The District Prison, Nagapattinam.
3. The Inspector of Police, Muthupettai Police Station, Thiruvarur District.
4. The Public Prosecutor, High Court, Madras.



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