

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.05.2020

CORAM

THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

Crl. O.P. No.7701 of 2020

Perumal

... Petitioner

-Vs-

The State represented by
Inspector of Police,
Magudamchavadi Police Station,
Salem District.
(Crime No.388 of 2020)

.... Respondent

PRAYER:- Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No.388 of 2020 on the file of the respondent.

For Petitioner : Mr.C.Deepak Kumar

For Respondent : Mr. Karthikeyan Swaminathan,
Additional Public Prosecutor

O R D E R

The Petitioner, who is A2 in Crime No. 388 of 2020 for the alleged offences under Sections 4(1)(a), 4(1)(g) and 4(1-A) of Tamil Nadu Prohibition Act altered into 4(1)(g) and 4(1-A), was arrested on 29.04.2020.

2. The case of the prosecution is that on 29.04.2020, when the respondent police was on routine patrol duty, received information that the petitioner along with another person was engaged in preparation of illicit alcohol in the farm house. The respondent police found the petitioner was in possession of 2 liters of alcohol with poisonous smell in 5 liter cane. Thereafter, the petitioner was arrested.

3. The contention of the Petitioner is that the petitioner is nothing to do with the alleged offence. The petitioner is an agriculturist, who is working in the farm house of A1. There is no previous case against the petitioner. Recovery was not followed as contemplated under Section 32 of Tamil Nadu Prohibition Act and hence, he seeks bail to the petitioner.

4. The learned Additional Public Prosecutor submitted that the respondent police, while they were on patrol duty, received information as the petitioner and other accused have indulged in preparation of illicit arrack and they had reached the scene of occurrence as well as arrested the accused and seized the arrack. Hence, he objected for the grant of bail to the petitioner.

5. Considering the facts and circumstances of the case and the fact that there is no previous case against the petitioner and the period of incarceration of the Petitioner from 29.04.2020, 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) each 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) the petitioner shall report before the respondent police as and when required for interrogation.

(h) 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];

(i) if the accused thereafter absconds, a fresh F.I.R. can be registered under Section 229A I.P.C.

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

-sd/-

20/05/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NO.II, SANKARI

2 THE PRINCIPAL SESSIONS JUDGE,
SALEM.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
MAGUDAMCHAVADI POLICE
STATION, SALEM DISTRICT.

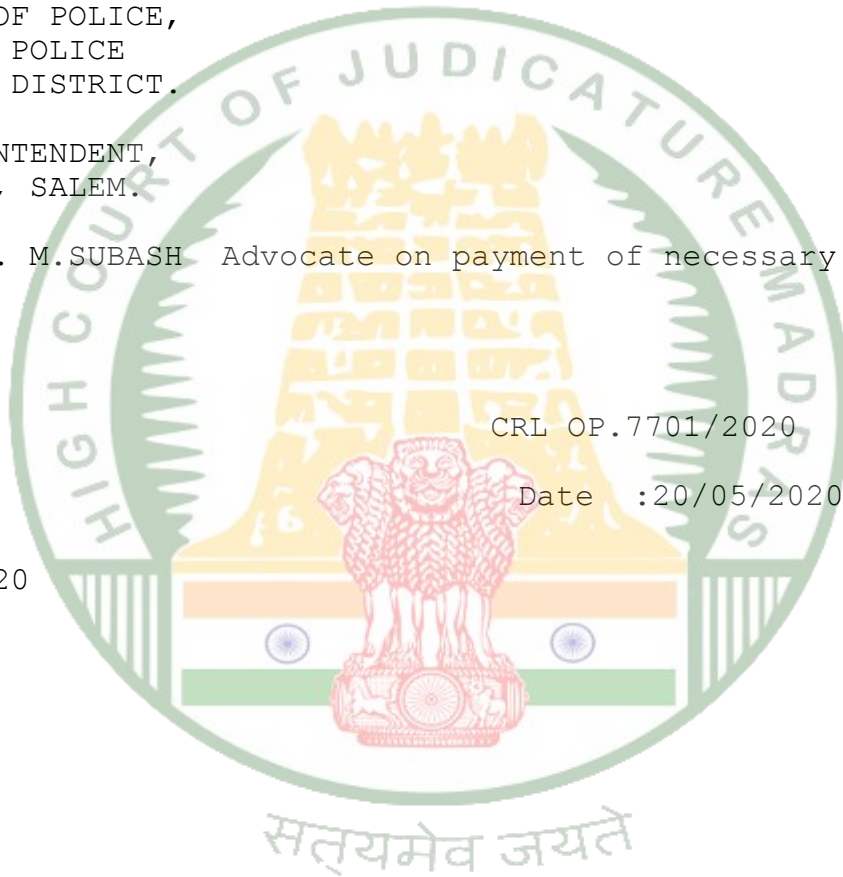
5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

CC to M/S. M.SUBASH Advocate on payment of necessary charges

CRL OP.7701/2020

Date :20/05/2020

RVR 22/07/2020



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