

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.05.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.7746 of 2020

1.Kulanthaivel
2.Elumalai

..Petitioner

Vs.

State Rep. by
The Inspector of Police,
Veeranam Police Station,
Salem District.
Cr. No.423 of 2020

.. Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail pending investigation in Crime No.423 of 2020 on the file of the respondent police.

For Petitioner : Mr.B.Vasudevan

For Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

O R D E R

The petitioners, who were arrested and remanded to judicial custody on 28.04.2020 for the offence punishable under Sections 4(1)(a), 4(1)(b), 4(1)(h), 4(1-A) of TNP Act in Crime No.423 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 28.04.2020, the defacto complainant/Inspector of Police conducted prohibition raid near Arasamarathu Vinayagar Kovil, Moolakadu, D.Perumampalayam, Salem Taluk and arrested the petitioner on the ground that they were said to have been found in illegal possession of 2 litres of Illicitly Distilled (ID) arrack in a bottle, mixed with poisonous substances (umathan seeds juice). Hence, this complaint.

3. The learned counsel appearing for the petitioners would submit that the petitioners are not involved in the above offence and they are no way connected with the offence as alleged by the prosecution. The learned counsel would further submit that the petitioners have been falsely implicated in this case. Further he submits that the petitioners are in judicial custody from 28.04.2020 and hence, he seeks bail for the petitioners. The petitioners have not bad antecedents.

4. The learned Additional Public Prosecutor would submit that the petitioners are in possession of 2 litres of arrack illegally brewed. He admits there is no previous case against the petitioners. He opposed for grant of bail to the petitioners.

5. Taking into consideration the nature of allegations against the petitioners in the FIR and also taking note of the fact that the petitioners is in judicial custody from 28.04.2020, this Court is inclined to grant bail to the petitioners, subject to the following conditions :

[a] each of the petitioner shall deposit a sum of **Rs.2,500/-** ***(Rupees two thousand five hundred only)** to the Chief Minister Public Relief Fund, Tamil Nadu, and on such deposit the petitioners are ordered to be released on bail on executing their own bond for a sum of Rs.10,000/- (Rupees ten thousand only) before the Superintendent of the concerned prison, in which the petitioners have been confined on their release;

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

(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 report before the respondent police as and when required for interrogation.

(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.

-sd/-

21/05/2020

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.

***Corrected as per order of this Court dated 23.05.2020.**

TO

1 THE JUDICIAL MAGISTRATE,
NO.4, SALEM

2 THE PRINCIPAL SESSIONS
JUDGE, SALEM.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
VEERANAM POLICE STATION,
SALEM DISTRICT,

5 THE SUPERINTENDENT,
CENTRAL JAIL, SALEM.

6 THE SECRETARY TO GOVT.
THE CHIEF MINISTER PUBLIC RELIEF FUND,
FORT ST.GEORGE, CHENNAI-600 009.

CC to B.VASUDEVAN Advocate on payment of necessary charges

WEB COPY

CRL OP.7746/2020

Date :21/05/2020

RVR 24/07/2020