

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 26.05.2020

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

Crl.O.P.No.7827 of 2020

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... Petitioner

Vs.

State by
Inspector of Police,
Anuperpalayam Police Station,
Tiruppur District.
(Crime.No.1868/2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the Petitioner on bail in the Crime No.1868/2020 on the file of the Respondent police.

For Petitioner : M/s.N.Sudharsan

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

ORDER

The petitioner was arrested and remanded to judicial custody on 02.05.2020 for the offence punishable under Sections 4 (l) (a), 4(1)(i) r/w. and 4(1-A) of the Tamil Nadu Prohibition Act, 1937 in Crime No.1868 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that when the respondent police was on petrol duty, on 02.05.2020 at 7.00, they made a raid bear the 1st street, Thangam Nagar, Nallathupalayam, Tiruppur, the petitioner herein was selling arrack in one litre water cans, by riding the same behind a bush, when the respondent police enquired him, he confessed that he was sold the illicit arrack with an intention to get unlawful gain during the period of curfew, by mixing the extract of Umathangai, a poisonous substance to get high intoxication. The petitioner was arrested and seized a blue colour can with 6 litre arrack, plastic water cans and cash of Rs.200/-.

3. The learned counsel appearing for the petitioner submits that the petitioner is no way connected with the offence as alleged by the prosecution. The learned counsel further submits that the petitioner has been falsely implicated in this case. Further, he submits that the petitioner is in judicial custody from 02.05.2020 and hence, he seeks bail for the petitioner.

4. The learned Additional Public Prosecutor submits that the petitioner was in possession of 6 litres of toddy illegally. He admits that there is

no previous case against the petitioner. He opposed for grant of bail to the petitioner.

5. Taking into consideration the facts of the case and the submissions made on either side and also taking note of the fact that the period of incarceration by the petitioner, this Court is inclined to grant bail to the petitioner, subject to the following conditions :

(a) the petitioner shall deposit a sum of Rs.2,000/- (Rupees two thousand only) to the Cancer Institute (WIA), (Regional Cancer Centre), Adyar, Chennai – 600 020, bearing A/c No.149710011005477, Andhra Bank, Madhya Kailash Branch, 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), 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 as and when required for interrogation.

(h) 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];

(i) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

26.05.2020

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Index : Yes/No

Internet : Yes/No

Speaking order/Non-speaking order

To

1.The Judicial Magistrate No.III,
Tiruppur.

2.The Sub-Jail,
Tiruppur.

3. The Inspector of Police,
Anuperpalayam Police Station,
Tiruppur District.

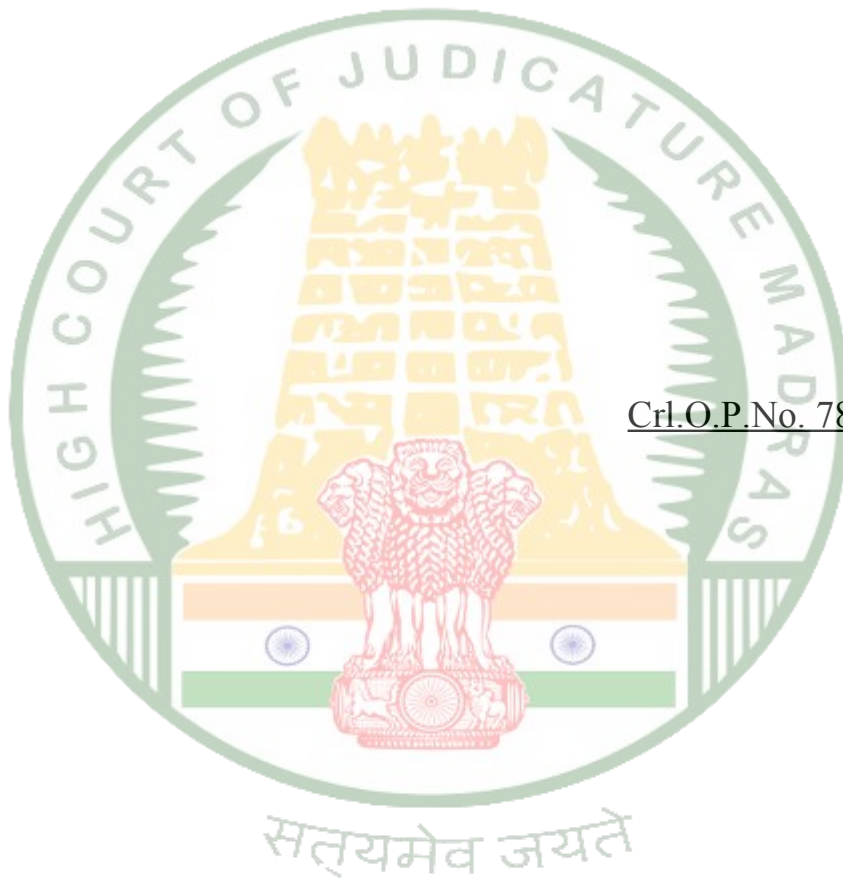
4. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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