

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.05.2020

CORAM

THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

Crl.O.P.No.7889 of 2020

1. Subramani ... Petitioners
2. Moorthy

-vs-

State rep. By ... Respondent
The Inspector of Police,
Yethappur Police Station,
Salem District.
Crime No. 236 of 2020.

PRAYER:- Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the Petitioners on bail in Crime No. 236 of 2020 pending investigation on the file of the Respondent Police.

For Petitioners : Mr. E. Kannadasan

For Respondent : Mr. Karthikeyan,
Additional Public Prosecutor

ORDER

The Petitioners, who were arrested and remanded to judicial custody on 12.04.2020 for the offence punishable under Sections 4(1) (aaa), 4(1)(b), 4(1)(g) and 4(1-A) of the Tamil Nadu Prohibition Act, 1937, in Crime No. 236 of 2020 on the file of the Respondent Police, seek bail.

2.The case of the prosecution is that the Petitioners were found in possession of 105 litres of illicit arrack containing ingredients of poisonous substance. Hence the complaint was registered.

3.The learned Counsel appearing for the Petitioners would submit that the Petitioners have not committed any offence as alleged by the prosecution. He would further submit that the Petitioners have been falsely implicated in this case and there is no bad antecedent against them. Further he would submit that the Petitioners are in judicial custody from 12.04.2020 and hence, he seeks bail for the Petitioners.

4.The learned Additional Public Prosecutor (Crl. Side) would submit that the Petitioners were in possession of 105 litres of arrack illegally brewed. He admits that 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 are in judicial custody from 12.04.2020, this Court is inclined to grant bail to the Petitioners, subject to the following conditions:-

(a) the Petitioners shall deposit a sum of Rs.2,500/- (Rupees Two Thousand and Five Hundred only) to the Cancer Institute (WIA), (Regional Cancer Centre), Adyar, Chennai - 600 020 (Bank: Andhra Bank, Madhya Kailash, SB A/C No.149710011005477), 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) each before the Superintendent of the concerned prison, in which the Petitioners have been confined on their release;

(b) the Petitioners 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 Petitioners shall report before the Respondent Police as and when required for interrogation.

(e) the Petitioners shall not commit any offences of similar nature;

(f) the Petitioners shall not abscond either during investigation or trial;

(g) the Petitioners shall not tamper with evidence or witness either during investigation or trial;

(h) on breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the Petitioners in accordance with law as if the conditions have been imposed and the Petitioners 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]**; and

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

-sd/-
28/05/2020

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 INSPECTOR OF POLICE
YETHAPPUR POLICE STATION,
SALEM DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

4 THE CANCER INSTITUTE (WIA), (REGIONAL CANCER
CENTRE), ADYAR, CHENNAI - 600 020 (BANK:
ANDHRA BANK, MADHYA KAILASH, SB A/C NO.149710011005477),

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

CRL OP.7889/2020

Date :28/05/2020

TA-19/08/2020