

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2020

CORAM:

THE HON'BLE MR.JUSTICE M. NIRMAL KUMAR

CRL.OP.No. 8408 of 2020

P.Thirumoorthy

... Petitioner

Vs.

State rep.by

The Inspector of Police,
Kangayam Police Station,
Tirupur District.

Crime No.1117 of 2020

... Respondent

Prayer : Criminal Original Petition filed under Section 439 Cr.P.C., to enlarge the petitioner on bail in Crime No.1117 of 2020 on the file of the respondent police.

For Petitioner : Mr.N.Stalin

For Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

ORDER

The Petitioner who was arrested and remanded to judicial custody on 13.05.2020 for the offences punishable under Sections 4(1)(aaa), 4(1)(i) of TNP Act @ 4(1)(aaa), 4(1)(i) r/w section 7 of TNP Act and section 34 of IPC, on the file of the respondent police, seeks bail.

2. The petitioner is A3 in Crime No.1117 of 2020 for the offences punishable under sections 4(1)(aaa), 4(1)(i) of TNP Act @ 4(1)(aaa), 4(1)(i) r/w section 7 of TNP Act and section 34 of IPC. The petitioner was arrested on 13.05.2020.

3. The case of the prosecution is that on 13.05.2020, six persons were carried

1152 TASMAL liquor bottles in their vehicle namely one TATA ACE and Maruthi Car and 3 Two wheelers. During the night check, TASMAL bottles found from them. From the petitioner, 48 bottles were recovered. The petitioner working as a Supervisor in TASMAL Shop No.2310, at Pandiyan Nagar, Tiruppur. The accused along with other 11 accused has stolen liquor bottles from the Government TASMAL shop with an intention to sell the same at a higher price during the period of curfew and they were caught red handed.

4. The contention of the petitioner is that the petitioner has been falsely implicated in this case. The alleged seizure is said to have been taken place at the mid night during the period of curfew, when there was no movement of any people. The petitioner has got no nexus with the other accused in this case. The petitioner being the Supervisor in TASMAL shop, he has falsely implicated in this case and further the petitioner has got two girl children for which he has to take care.

5. The learned Additional Public Prosecutor has submitted that the petitioner being the Supervisor in TASMAL Shop No.2310, at Pandiyan Nagar, Tiruppur. He was the main person who had engaged with other accused persons in taking away the liquor bottles from the shop at late hours and thereby transported the same. During the night check, the accused were got red handed with the liquor bottles, as far as the petitioner is concerned, 48 bottles were seized from him. Further, the petitioner had indulged in stealing of liquor bottles from Perumanalloor TASMAL shop No.1926 and 2311. The petitioner is being a Government Servant working in TASMAL has to abide by the

directions issued by the Government in ceiling the shop and following the guidelines. On the contrary, he has become a part of the gang, stealing the liquor bottles from the TASMAC shop with the intention to sell the same at higher price in the market. The petitioner was earlier suspended twice for similar nature of offence. Hence the Additional Public Prosecutor objected to grant bail.

6. Considering the submissions and all the liquor bottles have been seized and taken into consideration the period of incarceration, this Court is inclined to grant bail to the petitioner with the following conditions:

(a) The petitioner shall deposit a sum of Rs.50,000/- (Rupees Fifty thousand only) to the Cancer Institute (WIA), (Regional Cancer Centre), Adayar, Chennai – 600 020. Andhra Bank, Madhya Kailash Branch (SB A/c. No. 149710011005477) and on such deposit, the petitioner is ordered to be released on bail on executing 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/- each (Rupees Ten thousand only), before the concerned Magistrate after lifting of lockdown and commencement of functioning of Court below, 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 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]***.

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

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

10.06.2020

Internet: Yes/No

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To

- 1.The Judicial Magistrate,
Kangeyam.
- 2.The Inspector of Police,
Kangayam Police Station,
Tirupur District.
- 3.The Superintendent,
Central Prison, Tiruppur.
- 4.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR.,J.

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