

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :17.06.2020

CORAM

THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

Crl.O.P.No.8832 of 2020

Soundar

... Petitioner

Vs.

State Rep. by
The Inspector of Police,
PEW Police Station,
Kanchipuram District.
Cr. No.280 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.280 of 2020 on the file of the respondent police.

For Petitioner : Mr.M.Dinesh

For Respondent : Mr.C.Iyyappa Raj

Additional Public Prosecutor

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ORDER

The petitioners, who was arrested and remanded to judicial custody on 22.05.2020 for the offence punishable under Sections 4(1) (aaa) 4(1-A) of TNP Act and Section 6 and 11 of TN Rectified Sprit Rules, 2000 in Crime No.280 of 2020 on the file of the respondent police, seek bail.

2. The case of the prosecution is that on 24.05.2020, respondent police have received a secret information about selling of arrack based on the said information, the respondents rushed to the scene of occurrence where they found the petitioner was in possession of 105 liters of rectified spirit in plastic can (Comprising of 35 liters can) as well as 30 pockets of rectified spirit each weighing 100 m.l. Therefore, the present case was registered.

3. The learned counsel appearing for the petitioner would submit that the petitioner was not in possession of any illicit arrack or rectified sprit and that he has been falsely implicated in this case since the petitioner had similar cases during the year 2009, 2015 and in 2017 therefore, he has been

falsely implicated in this case for statistical purpose. Further he would submit that the petitioner is in judicial custody from 22.05.2020 and hence, he seeks bail for the petitioner.

4. The learned Additional Public Prosecutor would submit that the petitioner has got three previous cases of similar nature and that the petitioner has been regularly indulging in such activities. He further submitted that taking advantage of closure of TASMC shops, the petitioner indulged in selling of illicit arrack following which, the petitioner was arrested and that the articles were also seized from the petitioner. Hence he opposed for grant of bail to the petitioners.

5. Taking into consideration the nature of allegations against the petitioner in the FIR and also taking note of the fact that the petitioner is in judicial custody from 22.05.2020, this Court is inclined to grant bail to the petitioners, subject to the following conditions:-

a. the petitioner shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) to the Cancer Institute (WIA), (Regional Cancer Centre), Ad-

yar, Chennai – 600 020 (Bank: Andhra Bank, Madhya Kailash, SB A/C No.149710011005477), 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 petitioners have been confined on their release;

b. the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate within a period of 15 days from the date of lifting of lockdown and commencement of regular 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 report before the respondent police as and when required for interrogation.

e. the petitioner shall not commit any offences of similar nature;

d. 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 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]; and

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.

17.06.2020

Internet: Yes/No

kmm

To

1. The District Sessions Judge No.II, Kancheepuram.
2. The learned Judicial Magistrate No.II, Kancheepuram.
3. The Inspector of Police,
PEW Police Station,
Kanchipuram District

M.NIRMAL KUMAR, J.

4. The Public Prosecutor,
High Court, Madras.
5. The Superintendent,
District Prison, Chengalpattu.

Crl.O.P.No.8832 of 2020



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