

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.07.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.10732 of 2020

1.Balasundar
2.Bharathiselvan
3.Dhanabal

... Petitioners

Vs.

State rep. by
Inspector of Police
Vaduvoor Police Station
Thiruvarur District
(Crime No.895 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.895 of 2020 pending on the file of the Inspector of Police, Vaduvoor Police Station, Thiruvarur District.

For Petitioners : Mr.Swami Subramanian

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

O R D E R

(The case has been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 30.06.2020 for the offences punishable under Section 4(1)(aaa), 4(1)(g), 4(1)(a) and 4(1-A) of Tamil Nadu Prohibition Act, in Crime No.895 of 2020, seek bail.

2. The case of the prosecution is that the petitioners were illegally found in possession of 10 litres of I.D. Arrack and 150 litres of fermented wash. The same was seized by the respondent police.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. He would further submit that the entire family members have been arrested and there is no previous case against them. On instruction, he would further submit that without prejudice to their defence, the petitioners are prepared to deposit some considerable amount to any charitable organization or Association, and that the petitioner has been suffering incarceration from 30.06.2020. Hence, he prays to grant bail to the petitioner.

4.The learned Government Advocate (Crl. Side) would submit that the petitioners were illegally found in possession of 10 litres of I.D. Arrack and 150 litres of fermented wash and there are no previous cases pending against the petitioners. However, he opposed for the grant of bail to the petitioners.

5.Taking into consideration of the facts and circumstances and also considering the submissions made by the learned counsels and also the fact the petitioners are in custody from 30.06.2020, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) Accordingly, the petitioners are ordered to be released on bail on condition to make a non refundable deposit of Rs.10,000/- (Rupees Ten Thousand only) each, to the Dean, Government Medical College Hospital, Thiruvavarur District, on such deposit and production of proof and also 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 and thereafter on their release;

(b) Each petitioners shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the learned Judicial Magistrate No.I, Mannargudi, Thiruvavarur District, within a period of two weeks after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, failing which the bail granted by this Court shall stand dismissed automatically;

(c) Merely, because the petitioners deposit the said amount, it would not amount to admission of their guilt. Therefore, it is open to the trial Court to deal with the case independently.

(d) 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 daily at 10.30 a.m. for a period of two weeks and thereafter 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];

(i) 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/-

16/07/2020

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 JUDICIAL MAGISTRATE,
NO.I, MANNARGUDI, THIRUVARUR DISTRICT

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE OFFICER INCHARGE,
SUB JAIL, NANNILAM

4 INSPECTOR OF POLICE,
VADUVOOR POLICE STATION,
THIRUVARUR DISTRICT.

5 THE DEAN,
GOVERNMENT MEDICAL COLLEGE HOSPITAL
THIRUVARUR DISTRICT.

CC to M/S. SWAMI SUBRAMANIAN Advocate on payment of necessary charges

CRL OP.10732/2020

Date :16/07/2020

RVR 04/09/2020