

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.07.2020

CORAM :

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

Crl.O.P.No.11096 of 2020

Kamakshi
W/o.Lokesh Kumar

... Petitioner

Vs.

The State Rep. by
The Inspector of Police
Vellavedu Police Station
Vellavedu
Tiruvallur District
(Crime No.1464/2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.1464 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mr.B.Jawahar

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

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 14.06.2020 for the offence punishable under Sections 4(1) (a) r/w. 4(1-A) of Tamil Nadu Prohibition Act, in Crime No.1464 of 2020, seeks bail.

2. The case of the prosecution is that the petitioner along with other two accused was found in possession of 32 bottles, each containing 180 ml of liquor which contained prohibited substances, thereby, the respondent police registered a case against the petitioner.

3. The learned counsel appearing for the petitioner would submit that the petitioner out of necessity, purchased it from the TASMAL and sold it for higher price. He would further submit that none of the cases against her is registered for the poisonous substances. He would further submit that A1 has been granted bail by this Court vide order dated 23.07.2020 in Crl.O.P.No.10984 of 2020.

4.The learned Government Advocate (Crl. Side) would vehemently oppose to enlarge the petitioner on bail on the ground that the petitioner was in possession of 32 bottles of Pearl Brandy and the investigation is in preliminary stage and the petitioner is having 8 previous cases.

5.At this juncture, learned counsel for the petitioner would submit that the petitioner is a lady and out of necessity she had committed the offence. He would further submit that without prejudice to his defence, the petitioner is prepared to deposit some considerable amount to any charitable Organization or Association, and that the petitioner has been suffering incarceration from 14.06.2020.

6.Taking into consideration of the facts and circumstances and also considering the submissions made by the learned counsels and the period of incarceration suffered, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on condition to make a non refundable deposit of Rs.10,000/- (Rupees Ten Thousand only) to the Bar Council of Tamilnadu and Puducherry (BCTNP) Advocates Relief Fund, Indian Bank A/c.No.6873278505, IFSC: IDIB000M157, Madras High Court Branch, on such deposit and production of proof and on condition to execute her 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 and thereafter on her release;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the learned Judicial Magistrate No.II, Poonamallee, 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 petitioner deposits the said amount, it would not amount to admission of her 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;

(e) the petitioner shall report before the respondent police every day at 10.30 a.m. for a period of four weeks and thereafter on every Monday at 10.30 a.m. until further orders.

(f) the petitioner shall not commit any offences of similar nature;

(g) the petitioner shall not abscond either during investigation or trial;

(h) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(i) 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];

(j) 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/-

28/07/2020

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.II, POONAMALALEE, TIRUVALLUR DISTRICT

2 THE SUPERINTENDENT,
SPECIAL PRISON, FOR WOMEN CENTRAL PRISON,
PUZHAI, CHENNAI

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
VELLAVEDU POLICE STATION,
VELLAVEDU, TIRUVALLUR DISTRICT.

5 THE BAR COUNCIL OF TAMILNADU
AND PUDUCHERRY [BCTNP] ADVOCATE RELIEF FUND,
INDIAN BANK., MADRAS HIGH COURT BRANCH

CC to M/S. B.JAWAHAR Advocate on payment of necessary charges

CRL OP.11096/2020

Date :28/07/2020

RD 24/08/2020