

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.08.2020

CORAM :

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

Crl.O.P.No.11453 of 2020

R.Babu S/o.Raj

... Petitioner

Vs.

State rep. by
Inspector of Police
Peralam Police Station
Thiruvavarur District
(Crime No.1473 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.1473 of 2020 pending on the file of the respondent.

For Petitioner : Mr.P.Muthamizh Selvakumar
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 18.06.2020 for the offences punishable under Section 4(1) (aaa) R/w 4(1-A) of Tamil Nadu Prohibition Act and Transport Act, in Crime No.1473 of 2020, seeks bail.

2. The case of the prosecution is that the respondent police conducting their usual rounds found the petitioner was illegally transporting 1200 litres of Pondicherry Arrack in a Scorpio car.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case and he is in custody for more than 45 days.

4.The learned Government Advocate (Crl. Side) would submit that the petitioner was illegally found to be transporting 1200 litres of Pondicherry Arrack in Scorpio car. He would further submit that the petitioner has also involved in one previous case of similar nature in Crime No.544 of 2019, wherein he had transported 100 litres of I.D. Arrack. Hence, he vehemently opposes for the grant of bail to the petitioner.

5. At this juncture, the learned counsel for the petitioner would

submit that the petitioner has suffered incarceration for more than 45 days, while he was in custody, the petitioner was arrested on PT warrant for earlier case in Crime No.544 of 2019. He would further submit that in both cases investigation is almost complete. On instruction, he would further submit that without prejudice to his defence, the petitioner is prepared to deposit considerable amount to any charitable Organization or Association.

6.Taking into consideration of the facts and circumstances and also considering the submissions made by the learned counsels and also the fact the petitioner is in custody from 18.06.2019, 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.30,000/- (Rupees Thirty Thousand only) to the Manonmani Trust Account No.047501000028847 of Indian Overseas Bank, Tower Branch, AC-56, 5th Avenue, Anna Nagar, Chennai 600 040, IFSC :IOBA0000475, on such deposit and production of proof and also 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 his release;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the District Munsif Judicial Magistrate Court, Nannilam, Thiruvarur 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 petitioner deposits the said amount, it would not amount to admission of his 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 daily 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/-

03/08/2020

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 DISTRICT MUNSIF
JUDICIAL MAGISTRATE COURT,
NANNILAM, THIRUVARUR DISTRICT

2 THE OFFICER INCHARGE
SUB-PRISON, NANNILAM

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
PERALAM POLICE STATION,
THIRUVARUR DISTRICT.

5 THE MANONMANI TRUST
ACCOUNT NO.047501000028847
OF INDIAN OVERSEAS BANK,
TOWER BRANCH, AC-56,
5TH AVENUE, ANNA NAGAR,
CHENNAI 600 040, IFSC :IOBA0000475,

CC to P.MUTHAMIZHSELVAKUMAR Advocate on payment of necessary charges

CRL OP.11453/2020

Date :03/08/2020

RD 01/09/2020