

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.08.2020

CORAM :

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

Crl.O.P.No.12446 of 2020

ANBU

... Petitioner

Vs.

State rep. by

... Respondent

The Inspector of Police
Thiruthuraipoondi Police Station
Thiruvarur District
(Crime No.2183 of 2020)

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.2183 of 2020 on the file of the Inspector of Police, Thiruthuraipoondi Police Station, Thiruvarur District.

For Petitioner : Mr.Swami Subramanian

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

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 26.07.2020 for the offences punishable under Section 4 (1)(a), r/w. 4(1-A) of Tamil Nadu Prohibition Act, in Crime No.2183 of 2020, seeks bail.

2. The case of the prosecution is that the petitioner was illegally found in possession of 15 bottles of brandy without any licence. The same was seized by the respondent police.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and she has been falsely implicated in this case. He would further submit that the marriage of her daughter has been fixed on 24.08.2020 and she was arrested while she was distributing cards to her relatives.

4.The learned Government Advocate (Crl. Side) would submit that the petitioner was illegally found in possession of 15 bottles of brandy. He would further submit that the petitioner is having five previous cases to her credit. Therefore, he vehemently opposed

for the grant of bail to the petitioner. However, on instructions he would submit that the marriage of the petitioner's daughter has been fixed on 24.08.2020.

5. At this juncture the learned counsel for the petitioner would submit on instructions that taking into consideration of the Covid pandemic situation, the petitioner without prejudice to her defence, is prepared to make considerable donation to any charitable Organization or Association. He would submit that the petitioner has been suffering incarceration from 26.07.2020 and taking into consideration that the marriage is fixed on 24.08.2020, bail may be considered.

6. Taking into consideration the period of incarceration and that the marriage of the petitioner's daughter is fixed on 24.08.2020 and also the voluntary submission made by the petitioner offering to donate/pay considerable amount to any charitable organization or association, this Court is of the opinion that the petitioner shall be directed to make **a payment/donation of a sum of Rs.10,000/- (Rupees Ten Thousand only) to the Missionaries of Charity, A/c.No.0042053000009382, IFS Code: SIBL0000042, South Indian Bank Limited, George Town Branch.** and on such payment and production of proof she shall be released on bail on condition to execute a 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;

(a) the petitioner shall report before the respondent police every day at 10.30 a.m. for a period of two weeks (except on 24.08.2020) and thereafter on every Monday at 10.30 a.m. until further orders.

(b) thereafter on her release from the prison, within a period of two weeks after lifting of lockdown or commencement of the Court's normal functioning whichever is earlier, shall surrender before **the learned Judicial Magistrate, Thiruthuraipoondi, Thiruvarur District** and furnish two sureties for a sum of Rs.10,000/- each 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 not commit any offences of similar nature;

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

(g) the petitioner 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 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];

(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/-

20/08/2020

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 JUDICIAL MAGISTRATE
THIRUTHURAIPOONDI, THIRUVARUR DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARUR. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

5 THE OFFICER INCHARGE
SUB-JAIL FOR WOMEN
THIRUVARUR.

6 THE MISSIONARIES OF CHARITY, A/C.NO.
0042053000009382, IFS CODE: SIBL0000042,
SOUTH INDIAN BANK LIMITED, GEORGE TOWN
BRANCH.

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

CRL OP.12446/2020

Date :20/08/2020

TA-07/09/2020



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