

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.08.2020

CORAM :

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

Crl.O.P.No.13054 of 2020

1.BALAIYAN
2.DAMODHARAN

... Petitioners

Vs.

The State Rep. By
Inspector of Police
Kottur Police Station
Thiruvarur District
(Crime No.1101 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.1101 of 2020 on the file of the Inspector of Police, Kottur 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 08.08.2020 for the offences punishable under Section 4(1)(a) r/w 4(1-A) of Tamil Nadu Prohibition Act, in Crime No.1101 of 2020, seek bail.

2. The case of the prosecution as per the defacto complainant Sub Inspector is that on 08.08.2020 at about 4.00 p.m. when they conducted raid, they found the petitioners were illegally in possession of 30 Litres of I.D. Arrack in a polythene bag. 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. On instruction, he would further submit that taking into consideration the Covid pandemic situation the petitioners without prejudice to his defence, are prepared to make considerable donation to any charitable Organization or Association, and that the petitioners have been suffering incarceration from 08.08.2020. Hence, he prays to grant bail to the petitioners.

4.The learned Government Advocate (Crl. Side) would submit that when the respondent police conducted raid, they found the petitioners were illegally in possession of 30 Litres of I.D. Arrack in a polythene bag. He would further submit that as far as the 1st petitioner is concerned he is a habitual offender and there are three previous cases of similar nature pending against him and he also executed bond earlier before RDO on 13.05.2020, despite the same, he has been involving in similar offences. He would further submit that the 2nd petitioner has no previous case.

5.Taking into consideration of the fact that the 1st petitioner even after executing a bond, has involved in the same offence, this Court is not inclined to grant bail to the 1st petitioner. Accordingly, his bail application stands dismissed.

6.Taking into consideration of the voluntary submission made by the 2nd petitioner to offer / donate / pay considerable amount to any charitable organization or association this Court is of the opinion that the 2nd petitioner shall be directed to make a payment/donation for a sum of Rs.5,000/- (Rupees Five Thousand only) to the Little drops, Account No.05811010002400, IFSC No. ORBC0100581, Oriental Bank of Commerce, Moulivakkam, Chennai and on such payment and production of proof of receipt, they 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 2nd petitioner has been confined and thereafter on his release;

(b) the 2nd petitioner shall report before the respondent police every day at 10.30 a.m. for a period of two weeks and thereafter on every Monday at 10.30 a.m. until further orders.

(c) thereafter the 2nd petitioner on his 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 No.II, Mannargudi, 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.

(d) Merely, because the 2nd petitioner deposits 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.

(e) 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;

(f) the 2nd petitioner shall not commit any offences of similar nature;

(g) the 2nd petitioner shall not abscond either during investigation or trial;

(h) the 2nd 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 2nd petitioner in accordance with law as if the conditions have been imposed and the 2nd 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 stands dismissed as far as the 1st petitioner is concerned. This Criminal Original Petition stands allowed as far as the 2nd petitioner is concerned.

-sd/-

27/08/2020

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,
NO.II, MANNARGUDI,
THIRUVARUR DISTRICT.

2 THE OFFICER INCHARGE
SUB-JAIL, NANNILAM.

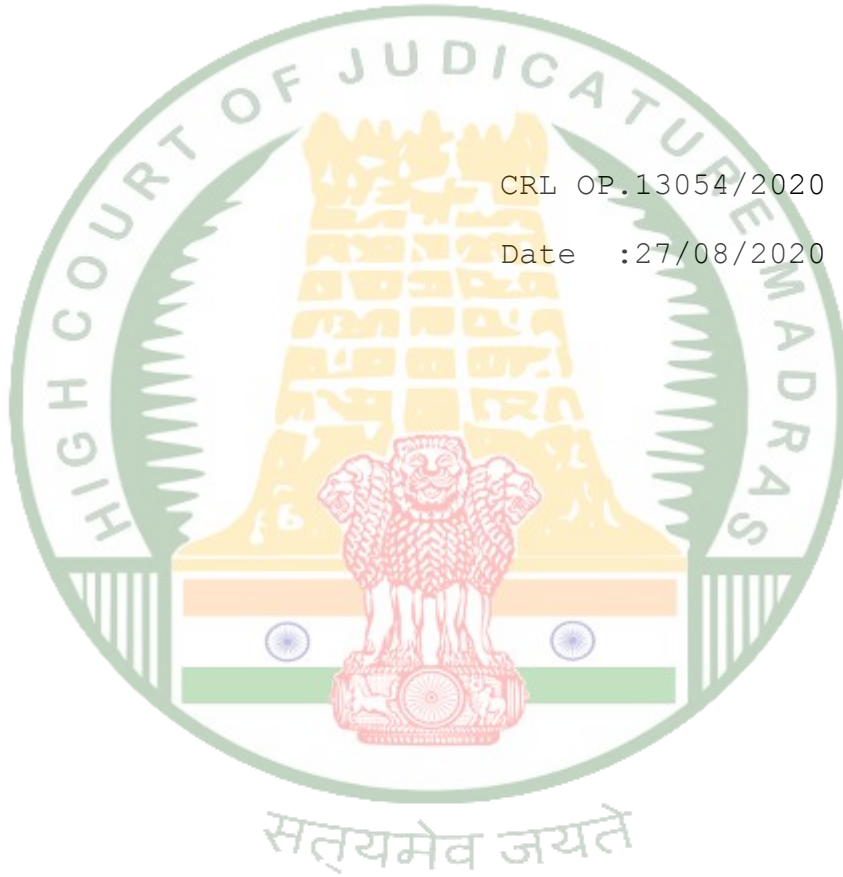
3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

5 THE LITTLE DROPS,
ACCOUNT NO.05811010002400,
IFSC NO. ORBC0100581,
ORIENTAL BANK OF COMMERCE,
MOULIVAKKAM, CHENNAI.

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

cs 08/09/2020



CRL OP.13054/2020

Date :27/08/2020

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