IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No. 13296 of 2020

1.Gopi
2.Mani ... Petitioners/Accused

Vs.

The State represented by,
The Inspector of Police,
Arakkonam Town Police Station,
Arakkonam, Ranipet District.
(Crime No.775 of 2020) ... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No. 775 of 2020, pending investigation on the file of the respondent police.

For Petitioners: Mr.A.Gopinath

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 06.08.2020 for the offences punishable under Sections 4(1)(a), 4(1-A), (ii) of TNP Act in Crime No.775 of 2020 on the file of the respondent police, seek bail.

2 The case of the prosecution is that the petitioners were found in illegal possession of 15 number of golden choice brandy, each contains 180 ml on 06.08.2020 and they were arrested and remanded to the judicial custody on the same day.

3 The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. He would submit that the petitioners are father and son and they have been arrested and a case has been foisted against them. On instruction,he would further submit that taking into consideration the Covid pandemic situation the

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petitioners without prejudice to their defence, are prepared to make considerable donation to any charitable Organization or Association,and that the petitioners have been suffering incarceration from 06.08.2020.Hence,he prays to grant bail to the petitioners.

4 The learned Government Advocate (Crl.Side) appearing for the respondent would submit that petitioners, who are respectively father and son were found in illegal possession of 15 bottles of golden choice brandy, each containing 180 ml. He would further submit that as far as first petitioner is concerned there are three previous cases pending against him and as far as second petitioner is concerned, there are 12 previous cases pending against him. Hence, he vehemently opposed to grant bail to the petitioners.

5 Taking into consideration the facts and submissions made by the learned counsel and the fact that the second petitioner is having 12 previous, this Court not inclined to grant bail in respect of the second petitioner viz.,Mani. Hence, this Criminal Original Petition stands dismissed in respect of the second petitioner. As far as the first petitioner is concerned, this Court is inclined to grant bail.

6 In order to curb the illegal activities and taking into consideration the voluntary submission made by the first petitioner offering to donate/pay considerable amount to any charitable organization or association this Court is of the opinion that the first petitioner shall be directed to make a payment/donation of a sum of Rs.5,000/- (Rupees Five Thousand only) to the Joint Secretary & Treasurer, Chief Minister's Public Relief Fund, Finance (CMPRF) Department, Government of Tamil Nadu, Secretariat, Chennai 600 009, Tamil Nadu, India, e-mail: jscmprf@tn.gov.in or by Electronic Clearing System (ECS) to Indian Overseas Bank, Secretariat Branch, Chennai 600 009, S.B.Account No.11720 10000 00070, IFS Code IOBA0001172, CMPRF PAN: AAAGC0038F and on such payment and production of proof the first petitioner shall be released on bail on executing a own bond for a sum of Rs.10,000/- (Rupees ten thousand only), before the Superintendent of the concerned prison, in which the first petitioner has been confined and thereafter on his release;

(a) the first 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.

(b) thereafter on his release 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 Judicial Magistrate, Arakkonam,Ranipet 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 first 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.

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(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 first petitioner shall not commit any offences of similar nature;

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

(g) the firt 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 first petitioner in accordance with law as if the conditions have been imposed and the first 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.

7 With the above directions, this Criminal Original Petition is ordered in respect of first petitioner and dismissed in respect of second petitioner.

-sd/-
31/08/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
ARAKKONAM, RANIPET DISTRICT

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 INSPECTOR OF POLICE,
ARAKKONAM TOWN POLICE STATION,
ARAKKONAM, RANIPET DISTRICT,

4 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

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5 THE JOINT SECRETARY & TREASURER,
CHIEF MINISTER'S PUBLIC RELIEF FUND,
FINANCE (CMPRF) DEPARTMENT, GOVERNMENT OF TAMIL NADU,
SECRETARIAT, CHENNAI 600 009, TAMIL NADU,
INDIA, E-MAIL: JSCMPRF@TN.GOV.IN OR BY ELECTRONIC
CLEARING SYSTEM (ECS) TO INDIAN OVERSEAS BANK,
SECRETARIAT BRANCH, CHENNAI 600 009,
S.B.ACCOUNT NO.11720 10000 00070,
IFS CODE IOBA0001172, CMPRF PAN: AAAGC0038F

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

CRL OP.13296/2020

Date :31/08/2020

RVR 10/09/2020

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