

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.09.2020

CORAM :

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

Crl.O.P.No.13650 of 2020

Kulanthaivelu

... Petitioner

Vs.

State By
Inspector of Police
Prohibition Enforcement Wing
Thiruchengode
Namakkal District
(Crime No.472 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail as against the case pending on the file of the respondent police in Crime No.472 of 2020.

For Petitioner : Mr.E.P.Senniyangiri

For Respondent : Mr.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 18.08.2020 for the offence punishable under Sections 4(1)(a), 4(1)(b), 4(1)(g) read with Section 4(1-A) of TNP Act, in Crime No.472 of 2020, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner was illegally found in possession of 350 litres of fresh wash and 20 litres of I.D. Arrack. The same was seized by the respondent police.

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 there is no previous cases. 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, and that the petitioner has been suffering incarceration from 18.08.2020. Hence, he prays to grant bail to the petitioner.

4.The learned Government Advocate (CrI. Side) would submit that the petitioner was illegally found in possession of 350 litres of fresh wash and 20 litres of I.D. Arrack and there is no previous case pending against the petitioner. However he opposed for the grant of bail to the petitioner.

5.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 18.08.2020, 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.25,000/- (Rupees Twenty Five Thousand only) to the Vishranthi Charitable Trust, S/B.Account No.086310000198, IFSC No. BKDN0620863, Dena Bank, Alwarpet Branch, 83, T.T.K.Road, Alwarpet, Chennai-600 018 and on such deposit and production of proof and also on condition to execute his 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 within a period of two weeks from the date of commencement of the Court's normal functioning, execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, for a likesum to the satisfaction of the learned Judicial Magistrate, Tiruchengode, Namakkal District, 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 daily at 10.30 a.m. and 5.30 p.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;

(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/-

08/09/2020

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,
TIRUCHENGODE, NAMAKKAL DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
PROHIBITION ENFORCEMENT WING,
TIRUCHENGODE, NAMAKKAL DISTRICT,

4 THE OFFICER INCHARGE
SUB JAIL, NAMAKKAL

5 THE VISHRANTHI CHARITABLE TRUST,
A/C NO.086310000198, IFSC NO.BKDN0620863,
DENA BANK, ALWARPET BRANCH,
83, T.T.K ROAD, ALWARPET,
CHENNAI - 600 018.

CC to M/S. E.P.SENNIYANGIRI Advocate on payment of necessary charges

CRL OP.13650/2020

Date :08/09/2020

RVR 11/09/2020