

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.09.2020

CORAM :

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

CrI.O.P.No.14403 of 2020

Pakkiri,
S/o. Sengeni

... Petitioner

Vs.

State Rep. By
The Inspector of Police
P4, Basin Bridge Police Station,
Chennai.
(Crime No.697 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.697 of 2020 pending investigation on the file of the respondent police.

For Petitioner : Mr. B. Janakiram

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (CrI. 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 07.08.2020 for the offences punishable under Sections 4(1) (aaa), 4(1)(i) & 4(1-A) of The Tamil Nadu Prohibition Act and Section 328 of IPC read with Sections 6 and 7 of the Tamil Nadu Prohibition of Smoking and Spitting Act, 2002 and Sections 188 and 269 of IPC in Crime No.697 of 2020, on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant, The Inspector of Police, In charge of the respondent police station is that on 07.08.2020, she received a secret information that some persons were indulging in illicit sale of arrack and banned tobacco products following which, she proceeded along with her team within the jurisdiction of the police station and she had seen that two men and two women were standing in a suspicious manner and on search, they were found to be in possession of 395 nos. of 180 ml brandy bottles, 60 nos. of 650 ml beer bottles, 5.5 kg mava and cash of Rs.15,300/- and they were arrested. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that it is a second application for bail and the earlier petition was dismissed by this Court on 26.08.2020 and the petitioner is an innocent person and he has been falsely implicated in this case. He would submit that the petitioner is a senior citizen aged 67 years

and he has been suffering incarceration for more than 38 days from 07.08.2020.

4.The learned Government Advocate (Crl. Side) appearing for the respondent police would submit that the petitioner is a habitual offender against whom there are six previous cases. He would further submit that on 07.08.2020, the petitioner along with three other accused was found in possession of 395 nos. of 180 ml brandy bottles, 60 nos. of 650 ml beer bottles, 5.5 kg mava and cash of Rs.15,300/- and that the investigation is pending. Hence, he vehemently opposed for grant of bail to the petitioner.

5. At this juncture, the learned Counsel for the petitioner would submit that the previous cases are related to the year 2015 and 2017 and there is only one case during the year 2020. However, on instruction, he would further submit that taking into consideration of the Covid pandemic situation the petitioner without prejudice to his defence, is prepared to make considerable donation to any charitable Organization or Association and prays to grant bail to the petitioner.

6.In order to curb the illegal activities and taking into consideration 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 for a sum of Rs.10,000/- (Rupees Ten 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 payment and production of proof he shall be released on bail on his 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 petitioner has been confined and thereafter on his release;

(a) the 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 from the date of commencement of the Court's normal functioning, shall surrender before the learned X Metropolitan Magistrate, Egmore, Chennai, 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 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 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.

7. With the above directions, this Criminal Original Petition is ordered.

-sd/-

16/09/2020

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 METROPOLITAN MAGISTRATE,
NO.X,EGMORE,CHENNAI

2 THE SUPERINTENDENT,
CENTRAL PRISON,PUZHAL,CHENNAI

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
P4, BASIN BRIDGE POLICE STATION, CHENNAI.

5 THE VISHRANTHI CHARITABLE TRUST,
SB.AC086310000198,IFSC NO.BKDNO620863,
DENA BANK, ALWARPET BRACH,
83,T.T.K.ROAD,ALWARPET,CHENNAI-600 018

+2 CC to M/S.B.JANAKIRAM Advocate on payment of necessary charges sr 30169

CRL OP.14403/2020

Date :16/09/2020