

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.09.2020

CORAM :

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

CRL.O.P.No.14326 of 2020

Arul

... Petitioner

Vs.

The State Rep. by
Inspector of Police
Thalaivasal Police Station
Salem District
(Crime No.490 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.490 of 2020 pending on the file of the Respondent Police.

For Petitioner : Mr.T.Ganesan

For Respondent : Mr.T.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 07.08.2020 for the offences punishable under Section 4(1)(i), 4(1)(aaa), 4(1-A) of Tamil Nadu Prohibition Act, in Crime No.490 of 2020, seeks bail.

2. The case of the prosecution is that the petitioner was illegally found in possession of 204 liters of ID arrack. The same was seized by the respondent police.

3. The learned counsel appearing for the petitioner would submit that this is the second bail application and the earlier application for bail was dismissed by this Court vide order dated 02.09.2020 in Crl.O.P.No.13482 of 2020. He would further submit that the petitioner is in custody from 07.08.2020 and on instructions he would further submit that without prejudice to his defence, the petitioner is prepared to deposit considerable amount to any charitable Organization or Association. 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 204 litres of ID arrack. He would further submit that the petitioner has one previous case. 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 07.08.2020, 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 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 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 the commencement of the Court's normal functioning, execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the learned Judicial Magistrate No.II, Attur, 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 on his release from prison shall report before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter as and when required for interrogation.

(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/-
15/09/2020

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,
NO.II, ATTUR

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE, सत्यमेव जयते
THALAIVASAL POLICE STATION,
SALEM DISTRICT.

4 THE OFFICER INCHARGE,
DISTRICT JAIL, ATTUR,
SALEM DISTRICT.

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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.T.GANESAN Advocate on payment of necessary charges

CRL OP.14326/2020

Date :15/09/2020

RVR 18/09/2020



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