

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.09.2020

CORAM :

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

CRL.O.P.No.14390 of 2020

BALAIYAN

... Petitioner

Vs.

The State Rep. by
Inspector of Police
Kottur Police Station
Thiruvavarur District
(Crime No.1101 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.1101 of 2020 pending on the file of the Respondent Police.

For Petitioner : Mr.Swamisubramanian

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 08.08.2020 for the offences punishable under Sections 4(1) (a) r/w 4(1-A) of Tamil Nadu Prohibition Act, in Crime No.1101 of 2020, seeks bail.

2. The case of the prosecution is that the petitioner was illegally found in possession of 6 litres of Pondy Arrack and 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. On instructions, he would further submit that without prejudice to his defence, the petitioner is prepared to deposit some considerable amount to any charitable Organization or Association. Hence, he prays to grant bail to the petitioner.

4. The learned Government Advocate (Crl. Side) would submit that the petitioner was illegally found in possession of 6 liters of Pondy Arrack. He would further submit that the petitioner has

got three (3) previous cases to his credit. He would further submit that this is the second bail application and his earlier bail application was dismissed by this Court vide order dated 27.08.2020 in CrI.O.P.No.13054 of 2020.

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 08.08.2020, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) The petitioner is directed to deposit a sum of Rs.15,000/- (Rupees Fifteen Thousand Only) each as non-refundable deposit through RTGS/NEFT to the **"Chief Minister's Public Relief Fund, Indian Overseas Bank, Secretariat Branch, Chennai SB.A/c. No.117201000000070, IFSC Code. No.IOBA0001172"**, within fifteen (15) days from the date of receipt of a copy of this order 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, Mannargudi, Thiruvavur District, failing which the bail granted by this Court shall stand dismissed automatically;

(c) Merely, because the petitioner deposit 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., 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;

(h) the 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 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];

(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 is ordered.

-sd/-

21/09/2020

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,
MANNARGUDI, THIRUVARUR DISTRICT

2 THE JAILER, SUB JAIL, NANNILAM

3 THE PUBLIC PROSECUTOR, HIGH COURT, MADRAS.

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

5 CHIEF MINISTER'S PUBLIC RELIEF FUND,
INDIAN OVERSEAS BANK, SECRETARIAT BRANCH,
CHENNAI SB.A/C. NO.117201000000070,
IFSC CODE. NO.IOBA0001172

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

CRL OP.14390/2020

Date :21/09/2020

GKS:23/09/2020