

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 22.09.2020
CORAM :
THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA
CRL.O.P.No.14860 of 2020

Anand S/o.Dhandapani

... Petitioner

Vs.

State Rep. By
The Inspector of Police
T1-Ambattur Kalal Police Station
Chennai
(Crime No.415 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail, concerned in Crime No.415 of 2020, on the file of the Respondent Police.

For Petitioner : Mr.C.Vimal Kumar

For Respondent : Ms.S.Thankira
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 15.08.2020 for the offence punishable under Sections 4(1) (aaa) r/w. 4(1-A) of Tamil Nadu Prohibition Act, 188, 269 IPC Section 3 of Epidemic Act, in Crime No.415 of 2020, seeks bail.

2.The case of the prosecution is that the petitioner along with other accused, defied the locked conditions and was found selling 1200 bottles of TASMAL Brandy. The same was seized by the respondent police.

3.The learned counsel appearing for the petitioner would submit that the petitioner was arrested on 15.08.2020 and the earlier application for bail was dismissed on 04.09.2020. He would further submit that the bail application in respect of the co-accused, was ordered by this Court on 10.09.2020 in Crl.O.P.No.14074 of 2020. On instruction, he would submit that taking into consideration the Covid pandemic situation, the petitioner without prejudice to his defence, is prepared to make considerable donation to any charitable Organization or Association and that the petitioner has been suffering incarceration for more than one month from 15.08.2020. Hence, he prays to grant bail to the petitioner.

4.The learned Government Advocate would submit that the petitioner along with other accused was found in possession of 1200 bottles of TASMAL Brandy, worth about Rs.1,56,000/- for selling during lockdown period. She would further submit that the petitioner was arrested on 15.08.2020 and investigation is pending. Hence, she vehemently opposed for the grant of bail to the petitioner.

5. 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 of a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), through RTGS/NEFT in favour of the Cancer Institute (WIA) (Regional Cancer Centre), Adyar, Chennai - 600020, bearing A/c.No.149710011005477, Andhra Bank, Madhya Kailash Branch, Chennai, and on such payment and production of proof he shall be released on bail on his executing 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 her 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 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 Judicial Magistrate-II, Poonamallee, 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

(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/-
22/09/2020

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, POONAMALLEE

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAAL, CHENNAI

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
T1-AMBATTUR KALAL POLICE STATION,
CHENNAI.

5 THE CANCER INSTITUTE [WIA]
REGIONAL CANCER CENTRE,
ADYAR, CHENNAI 600 020

CC to M/S. C.VIMAL KUMAR Advocate on payment of necessary charges

WEB COPY

CRL OP.14860/2020

Date :22/09/2020

RD 24/09/2020