

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.10.2020

CORAM :

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

CRL.O.P.No.15952 of 2020

K.PERIYASAMY

... Petitioner

Vs.

State Rep. by Sub Inspector of Police,
Prohibition Enforcement, Wing,
Krishnagiri,
Krishnagiri District.
(Crime No.757 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.757 of 2020 pending investigation on the file of the respondent police.

For Petitioner : Mr.E.Kannadasan

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 28.08.2020 for the offences punishable under **Sections 4(1) (aaa) r/w. 4(1-A) of Tamil Nadu prohibition Act and Sections 468, 471, 420 of I.P.C. r/w 6, 7 of Tamil Nadu Rectified Spirit Rules 2000, in Crime No.757 of 2020** on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 28.08.2020 at about 15.00 hours, the respondent police received a secret information about some person preparing spurious liquor. On receipt of the information, the respondent police visited the house of the petitioner and on seeing the police party, the petitioner and another accused tried to escape from the scene of occurrence, however, the respondent police managed to apprehend them and made a search in his house and found that the petitioner was illegally in possession of 1.Bush Rum Remover Essence - 1 liter, 2.Honey Essence - 1/2 liter, 3.Bush Banana No.1 - 1/2 liter, 4.BRAC Mixed Fruit Flavour S.1038 - 1/2 liter, 5. 100 Nos. of Express brandy Label, 6. 400 Nos. of MC Brandy Label, 7. 50 Nos. of Men's Club Brandy Label, 8. 50 Nos. of Men's Club Brandy Label, 9. 10

Nos. of Black Barrel Brandy, 10. 1 No. of Camlin While Glue, 11. 150 Nos. of Hologram 18 sheets, 12. 1 No. of Blending Machine, 2000 Nos. of Bottle cap, 13 .300 Nos. of empty bottles (each bottle 375 ml) 3 Nos. of plastic cane containing 35 liters of spirit, totally 105 liters of Spirit.

3.The learned counsel appearing for the petitioner would submit that this is the second bail application, the earlier bail application was dismissed by this Court 21.09.2020 in Crl.O.P.No.14694 of 2020, on the ground that the learned Government Advocate (Crl. Side) represented that there are two previous cases pending against this petitioner. He would further submit that on verification, he came to understand that the petitioner has no previous cases against him. He would further submit that the petitioner is prepared to abide by any stringent conditions that to be imposed on him by this Court, as the petitioner is in custody from 28.08.2020.

4.The learned Government Advocate (Criminal Side) would vehemently oppose stating that on information, the respondent police conducted a search in the house of the petitioner and found that the petitioner was illegally in possession of Bush Rum Remover Essence - 1 liter, Honey Essence - 1/2 liter, Bush Banana No.1 - 1/2 liter, BRAC Mixed Fruit Flavour S.1038 - 1/2 liter, 100 Nos. of Express brandy Label, 400 Nos. of MC Brandy Label, 50 Nos. of Honey Bee Label, 50 Nos. of Men's Club Brandy Label, 10 Nos. of Black Barrel Brandy, 1 No. of Camlin While Glue, 150 Nos. of Hologram 18 sheets, 1 No. of Blending Machine, 2000 Nos. of Bottle cap, 300 Nos. of empty bottles (each bottle 375 ml) 3 Nos. of plastic cane containing 35 liters of spirit, totally 105 liters of Spirit. He would further submit that the petitioner was almost running a illicit factory. He would further submit that the petitioner was transporting rectified spirit and also collected materials to prepare duplicate IMFL He would further submit that the petitioner is in custody from 28.08.2020 and the respondent police have also filed written instructions today submitting that there are no previous cases pending against this petitioner.

5.Heard the learned counsels on either side. Perused the other materials placed on record.

6.Taking into consideration of the facts and submissions made by the learned counsels and also taking into consideration the period of incarceration suffered by the petitioner and there are no previous cases pending against this petitioner, 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 execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties each for a like sum to the satisfaction of the **Judicial Magistrate No.I, Krishnagiri**, and on further conditions that:

(b) 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;

(c) the petitioner on his release from prison shall report before the respondent police everyday at 10.30 a.m. until further orders.

(d) the petitioner shall not commit any offences of similar nature;

(e) the petitioner shall not abscond either during investigation or trial;

(f) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g) 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];

(h) 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/-
12/10/2020

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.I,
KRISHNAGIRI

2 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

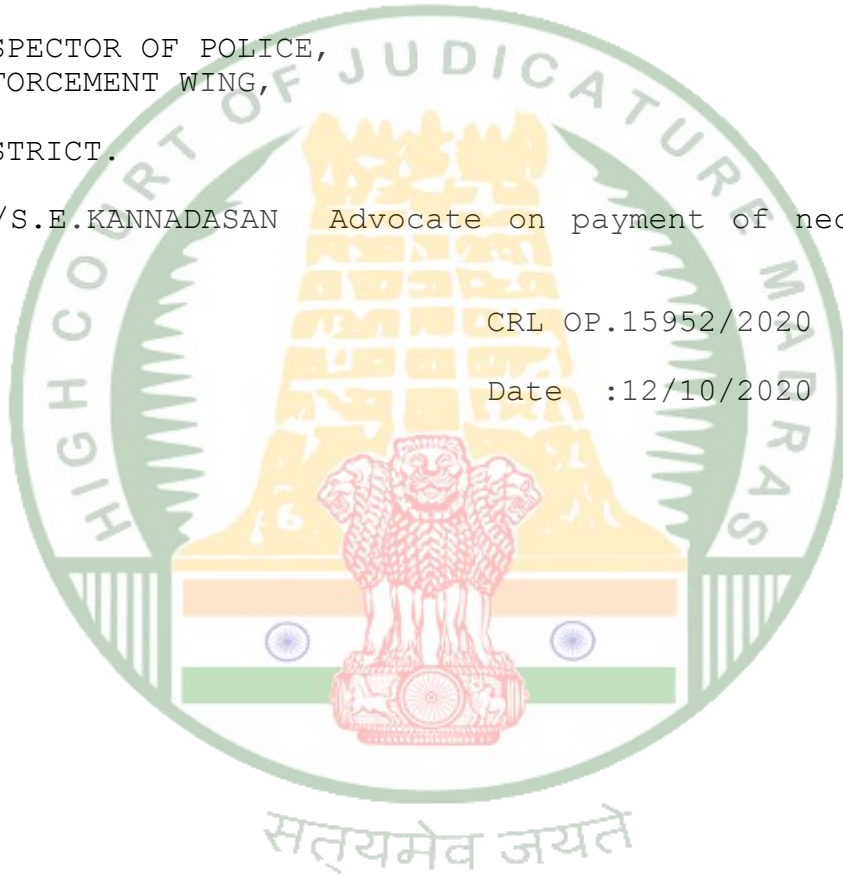
4 THE SUB INSPECTOR OF POLICE,
PROHIBITION ENFORCEMENT WING,
KRISHNAGIRI,
KRISHNAGIRI DISTRICT.

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

CRL OP.15952/2020

Date :12/10/2020

MK:13/10/2020



WEB COPY