

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.12.2020

CORAM :

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

CRL.O.P.No.19676 of 2020

Manikandan

... Petitioner

Vs.

State Rep by

The Sub Inspector of Police,
Thalaivasal Police Station,
Salem District.

(Crime No.706 of 2020)

.... Respondent

Prayer: Criminal Original Petition is filed under Section 439 of Cr.P.C, to enlarge the petitioner on bail in Crime No.706 of 2020 on the file of the respondent police.

For Petitioner : Mr.R.Sankarasubbu

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl.Side)

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 20.11.2020 for the offence punishable under Section 4(1)(i), 4(1)(aaa) and 4(1-A) of TNP Act, in Crime No.706 of 2020, seeks bail.

2. The case of the prosecution as per the *de facto* complainant Suresh is that on 20.11.2020 at about 6.00 hours near Manivizhundhan North Burial Ground, the accused were selling ID Arrack and the *de facto* complainant purchased and consumed the same. After consuming the same, he felt some problem in his body and on the complaint given by *de facto* complainant, the respondent police went to the spot and at that time, the petitioner along with other accused was found in possession of 265 liters of ID arrack containing poisonous substances and the same was recovered 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 along with two other accused in this case. He would submit that the other two accused have been detained under Act 14 of 1982. He would submit that the petitioner was arrested on 20.11.2020 and he is in custody for almost a month. Hence, he prays to grant bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent police would vehemently oppose stating that the petitioner along with other accused was found in illegal possession of 265 liters ID arrack with poisonous substances. He would submit that the co-accused in this case have been detained under Act 14 of 1982.

5. Taking into consideration the facts and circumstances of the case and the submissions of the learned Counsels and the fact that the co-accused have been detained under Act 14 of 1982 and also considering the period of incarceration suffered by the 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 learned Judicial Magistrate-II, Attur, 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 the 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.

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

-sd/-
21/12/2020

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 CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON,SALEM

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE SUB INSPECTOR OF POLICE
THALAIVASAL POLICE STATION,
SALEM DISTRICT.

CC to M/S.R.SANKARASUBBU Advocate on payment of necessary charges

CRL OP.19676/2020

Date :21/12/2020

GKS:22/12/2020