

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.19916 of 2020

1.Ramar

2.Marimuthu

... Petitioners

Vs.

State Rep. By Sub Inspector of Police,
Thalaivasal Police Station,
Salem District.

(Crime No.718 of 2020)

... Respondent

Prayer: Criminal Original Petition is filed under Section 439 of Cr.P.C, to enlarge the petitioners on bail in Crime No.718 of 2020 on the file of the respondent police.

For Petitioners : 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 petitioners, who were arrested and remanded to judicial custody on 25.11.2020 for the offences punishable under Sections 4(1) (i), 4(1)(g), 4(1)(aaa) and 4(1-A) of TN Prohibition Act, in Crime No.718 of 2020 on the file of the respondent police, seek bail.

2. The case of the prosecution as per the *de facto* complainant Ganesan is that on 25.11.2020, he had purchased I.D.Arrack for a sum of Rs.100/- and after he consumed the same, he got trouble in the body. Hence, the complaint. Based on his complaint, the respondent police went to the place of the occurrence and found the petitioners in illegal possession of 165 litters of illicitly distilled arrack in two lorry tubes and an amount of Rs.500/- was recovered.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. He would submit that there is no previous case against the petitioners and hence, he prays to grant bail to the petitioners.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would vehemently oppose stating that the petitioners were arrested on 25.11.2020 for having found in illegal possession of 165 liters of illicit distilled arrack. He would submit that the petitioners sold liquor for a sum of Rs.100/- to the *de facto* complainant and after consuming the same, the *de facto* complainant felt giddiness and that the arrack was found poisonous substances. He would further submit that there is no previous case against the petitioners.

5. Taking into consideration of the facts and circumstance of the case and submissions made by the learned counsels and also considering the period of incarceration suffered by the petitioners and that there is no previous cases pending against the petitioners, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) Accordingly, the petitioners are ordered to be released on bail on condition to execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.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 petitioners, on their release from prison, shall report before the respondent police everyday at 10.30 a.m. until further orders.

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

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

(f) the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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 JAILER, SUB JAIL, ATTUR

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

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

CRL OP.19916/2020

Date :21/12/2020

GKS:22/12/2020