

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2020

CORAM

THE HONOURABLE Mr. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.20254 of 2020

Suriyan

...Petitioner

Vs.

The State represented by,
The Inspector of Police,
Gangavalli Police Station,
Salem District.
(Crime No.560/2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. praying to enlarge the petitioner on bail in Crime No.560 of 2020 on the file of the respondent.

For Petitioner : Mr.T.Ganesan

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 24.11.2020 for the offences punishable under Sections 4(1)(i), 4(1)(aaa) and 4(1-A) of TN Prohibition Act, in Crime No.560 of 2020 on the file of the respondent police, seek bail.

2. The case of the prosecution as per the defacto complainant Kaliyamoorth is that he was having the habit of consuming liquor and that on 24.11.2020, he had purchased liquor from the accused and drunk it. After consuming the same, he sustained stomach pain and vision loss. When he had questioned the same, he was informed that the accused had mixed Daturaseeds in the liquor following which, the defacto complainant was admitted in the Government Hospital and based on his complaint, the respondent went to the place of the accused and found the accused in possession of 120 liters of illicitly distilled arrack.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. However, on instructions, he would submit that 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 from 24.11.2020.

4.The learned Government Advocate (Crl. Side) appearing for the respondent would vehemently oppose stating that the accused had mixed Umatham in the liquor and sold the same to the defacto complainant due to which, he sustained stomach pain and vision loss. Based on the complaint of the defacto complainant, when the respondent had gone to the place of the accused, he was found in possession of 120 litters of distilled arrack. He would further submit that there is no previous case against the petitioner.

5. In order to curb the illegal activities and taking into consideration of 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 deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) as non-refundable deposit through RTGS/NEFT in favour of the "The Dean, Rajiv Gandhi Government General Hospital, Chennai, bearing A/c.No.10273425961, State Bank of India, Park Town (Chennai), 68, Evening Bazaar Road, Chennai, IFSC:SBIN0001856, on such payment and production of proof, he shall be released on bail on further condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a likesum sum to the satisfaction of the the learned Judicial Magistrate-II, Attur, and on further conditions that;

(a) Merely, because the petitioner deposit 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;

(b) the petitioner shall report before the respondent police every day at 10.30 a.m. until further orders;

(c) 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;

(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/-

18/12/2020

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 PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
GANGAVALLI POLICE STATION,
SALEM DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

6 THE DEAN, RAJIV GANDHI GOVERNMENT GENERAL HOSPITAL,
CHENNAI, BEARING A/C.NO.10273425961,
STATE BANK OF INDIA, PARK TOWN (CHENNAI),
68, EVENING BAZAAR ROAD, CHENNAI,
IFSC:SBIN0001856,

CC to T.GANESAN Advocate on payment of necessary charges

WEB COPY

CRL OP.20254/2020

Date :18/12/2020

RVR 21/12/2020