

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.12.2020

CORAM :

THE HON'BLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P.No.21040 of 2020

Kaliyamoorthy

... Petitioner

Vs.

The State represented by
The Inspector of Police,
Thalaivasal Police Station,
Salem District
(Crime No.732 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.732 of 2020 pending investigation on the file of the respondent police.

For Petitioner : Mr.T.Ganesan

For Respondent : Mr.K.Madhan

Government Advocate (Crl. Side)

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 03.12.2020 for the offences punishable under Section 4(1) (aaa) and 4(1-A) of TN Prohibition Act, in Crime No.732 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner was illegally found to be in possession of 110 liters of ID Arrack without any licence and the same was seized by the respondent police.

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. Hence, prays for grant of bail to the petitioner.

4.The learned Government Advocate (Crl. Side) would submit that the petitioner was illegally found to be in possession of 110 liters of ID Arrack. He would further submit that the petitioner is

having one previous case of similar nature. Therefore, he vehemently opposed for the grant of bail to the petitioner.

5. Heard the learned Counsels on either side. Perused F.I.R. and other materials placed on record.

6. Overall consideration of the facts, the nature of accusation, the nature of offences, the materials in support of the accusation and the circumstances of the case and the period of detention of the petitioner in the judicial custody, 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.25,000/- (Rupees Twenty Five Thousand only), 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 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/-
30/12/2020

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,
THALAIVASAL POLICE STATION,
SALEM DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

CC to M/S. T.GANESAN Advocate on payment of necessary charges

CRL OP.21040/2020

Date :30/12/2020

MN-31/12/2020