

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.3790 of 2021

Divakar

... Petitioner

Vs.

State Rep. by
The Inspector of Police,
Manalmedu Police Station,
Nagapattinam Dt.
(Crime No.1266 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.1266 of 2020 on the file of respondent police.

For Petitioner : Mr.V.Sakkarapani

For Respondent : Mrs.M. Prabavathi,
Addl. Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner is the sole accused. The petitioner, who was arrested and remanded to judicial custody on 27.12.2020 for the offence punishable under Sections 4(1)(i), 4(1)(aaa), r/w 4(1-A) of TNP Act in Crime No.1266 of 2020, seeks bail.

2. The case of the prosecution is that on the date of occurrence, when the respondent police was on regular patrolling, the petitioner was found selling of illicit arrack illegally near Eluppathoppu and also found that 110 litres of illicit arrack was in possession of the petitioner. Hence, a criminal case was registered against the petitioner. Accordingly, he was arrested and remanded to judicial custody on 27.12.2020.

3. The learned counsel appearing for petitioner would submit that he is an innocent person and he has been falsely implicated in the present case. He would submit that he has no bad antecedents and he is in custody for two months. Hence, he prayed to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner was found selling the liquor bottles illegally and also found in possession of 110 litres of illicit arrack. She would submit that the petitioner is not having any bad antecedents. However, she opposed to grant bail to the petitioner.

5. Considering the fact that the petitioner was found in possession of only 110 litres of arrack, he has no previous bad antecedents and also considering the period of incarceration suffered by the petitioner from 27.12.2020, 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 No.I, Mayiladuthurai 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 daily at 10.30 a.m. for the period of two weeks;

(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/-
26/02/2021

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,
MAYILADUTHURAI.

2 THE CHIEF JUDICIAL MAGISTRATE,
NAGAPATTINAM [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
MANALMEDU POLICE STATION,
NAGAPATTINAM DISTRICT.

5 THE OFFICER INCHARGE,
SUB JAIL, MAYILADUTHURAI.

CC to M/S.V.SAKKARAPANI Advocate on payment of necessary charges

WEB COPY
CRL OP.3790/2021
Date :26/02/2021

MN-01/03/2021