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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2021

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.24861 of 2021

Mohammed Afsal

...Petitioner

Vs.

The State Rep. By
Inspector of Police,
Saibaba Colony Police Station,
Coimbatore.
Crime No.424 of 2021

...Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to grant bail to the petitioner in Crime No. 424 of 2021 on the file of the respondent police.

For Petitioner : Mr.Deepanuday

For Respondent : Mr.N.S.Suganthan
Government Advocate (Crl. Side)

ORDER

(The case has been heard through video conference)

The petitioners who was arrested and remanded to judicial custody on 23.06.2021 for the offence under Section 328 of IPC and Section 22 (c) of Narcotic Drugs and Psychotropic Substances Act 1985, in Crime No.424 of 2021, seeks bail.

2..The case of the prosecution is that 23.06.2021, when the respondent police officials were on their regular patrol duty, found the petitioner in illegal possession of Tydol 100 mg. tablets and injections for selling the same in and around the area for intoxication. Hence, the complaint.



3.The learned counsel appearing for the petitioner would submit that the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case and that the petitioner has been suffering incarceration for more than 175 days from 23.06.2021. However, on instructions, he would submit that the petitioner is ready and willing to pay a sum of Rs.10,000/- to any Charitable Institute as may be directed by this Court and he would pray for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) raised strong objection stating that there are totally four accused in this case and the petitioner is arrayed as A4 and that he was found in illegal possession of Tydol 100 mg. tables for selling the same for intoxication but admits that all the accused were arrested.

5.In order to curb the illegal activities and considering the submission made by the learned counsel for the petitioner, this Court is of the opinion that the petitioner shall be directed to make a non refundable deposit of Rs.10,000/- (Rupees Ten Thousand Only), to the credit of the Registered Advocates Clerks Association, Coimbatore, without prejudice to his rights and contentions. The amount so deposited shall be utilised by the Association for the welfare of the Advocates.

6.It is made clear that the deposit of the amount by the petitioner to the said Association would not amount to admission of guilt. The trial Court shall deal with the case independently on merits without reference to the amount deposited at the stage of bail.

7. Considering the period of incarceration undergone by the petitioner and the investigation is almost completed, this Court is inclined to grant bail to the petitioner with certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail on his executing 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 Additional District Judge/Presiding Officer Special Court for Essential Commodities Act Cases, Coimbatore, and on further condition that:

(a) the petitioner shall make non-refundable deposit a sum of Rs.10,000/- (Rupees Ten Thousand Only) through demand draft to the Registered Advocates Clerks Association, Coimbatore, without prejudice to his defence before the trial Court and the learned Judicial Magistrate, after perusing the challan/ receipt, shall accept the sureties furnished by the petitioner;



(b) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

WEB COPY (c) the petitioner shall report before the respondent police daily at 10.30 a.m. until further orders;

(d) the petitioner shall not tamper with evidence or witness either during investigation or trial;

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

(f) on breach of any of the aforesaid conditions, the learned 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]; and;

(g) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-

21/12/2021

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 ADDITIONAL DISTRICT
JUDGE/PRESIDING OFFICER SPECIAL COURT FOR
ESSENTIAL COMMODITIES ACT CASES, COIMBATORE.

2 THE SUPERINTENDENT,
CENTRAL JAIL, COIMBATORE.

3 THE INSPECTOR OF POLICE,
SAIBABA COLONY POLICE STATION,
COIMBATORE.



4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE REGISTERED ADVOCATES
CLERKS ASSOCIATION, COIMBATORE.

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

CRL OP.24861/2021

Date :21/12/2021

RW 22/12/2021