



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 11/03/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.2537 of 2021

C.Selva Kumar

... Petitioner/Sole Accused

Vs

State Rep.by
The Inspector of Police,
Asaripallam Police Station,
Kanyakumari District.
Crime No.18/2021.

... Respondent/Complainant

For Petitioner : Mr.Y.Jagadeesh,
Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

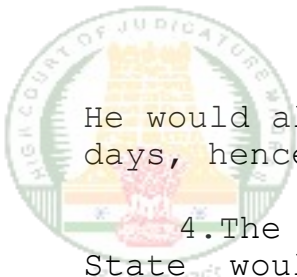
PRAYER :- For Bail in Crime No.18 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/sole accused herein who was arrested and remanded to judicial custody on 04.02.2021 for the alleged offence under Section 4(1-A) of TNP Act, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that when the respondent police was on search near the Aksaya Store at Vasantham Nagar on seeing the police the petitioner herein tried to escape but the respondent caught him and found him in illegal possession of 25 bottles quarter bottles. Hence the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in the above case. He would also submit that for statistical purpose the present case has been registered against the petitioner. He would also submit that the petitioner is running a small provisional store and unfortunately it is located near the tasmac shop for which the police party are repeatedly registering false cases against him.



He would also submit that the petitioner is in jail for more than 30 days, hence he may be granted bail.

4.The learned Government Advocate(Crl.Side) appearing for the State would submit that the petitioner was found in illegal possession of 25 quarter bottles. He would also submit that the entire contraband was seized by the respondent police. He would also submit that 21 previous case are pending against the petitioner. Further the petitioner had already executed a bond under Section 110 of Cr.P.C on 01.12.2020 and during that period he had indulged in this offence and separate proceedings are pending before the Tahsildhar. He would also submit that in some of the cases the petitioner admitted his guilt and paid fine. Further proceedings are initiated against the petitioner for violation of bond under Section 110 of Cr.P.C. hence he strongly opposed to grant bail to the petitioner.

5.Taking into consideration the facts and circumstances of the case and also taking into consideration the period of incarceration and also taking note of the fact that the entire contraband was seized by the respondent police this Court is inclined to grant bail to the petitioner by imposing conditions.

6.Accordingly, the petitioner is ordered to be released on bail, subject to the following conditions:

[a] the petitioner pay a sum of Rs. 50,000/- (Rupees Fifty thousand only) to the "Manolaya, 4/133/4 Chardep Nagar, Achankulam, Potrayadi Post, Kanyakumari District- 629 703 without prejudice to his rights and contentions before the trial Court. The petitioner shall produce the proof of remittance of the said amount to the Magistrate while executing sureties.

[b] On acknowledgment of the same, the petitioner shall 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, Nagercoil.

[c] the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

[d] the petitioner shall report before the respondent police daily at 10.30 a.m for a period of two weeks and thereafter as and when required for interrogation.

[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 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. It is made clear that the order passed by this Court in this petition shall no way influence the decision to be taken by the Executive Magistrate in the proceedings pending before him.

sd/-
11/03/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE JUDICIAL MAGISTRATE NO.I, NAGERCOIL.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
3. THE OFFICER INCHARGE, DISTRICT JAIL, NAGERCOIL.
4. THE INSPECTOR OF POLICE,
ASARIPALLAM POLICE STATION, KANYAKUMARI DISTRICT.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE OFFICER INCHARGE,
MANOLAYA, 4/133/4 CHARDEP NAGAR,
ACHANKULAM, POTRAYADI POST,
KANYAKUMARI DISTRICT- 629 703

ORDER IN
CRL OP(MD) No.2537 of 2021
Date :11/03/2021

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<https://hmcg.csl.courts.madras.gov.in/cslservices> 11/03/2021/3P.7C