



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

Date : 15/09/2021
PRESENT

WEB COPY

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . No.13542 of 2021

1.U.Selvam
2.R.Kumaran

... Petitioner/Accused Nos.1 & 2

Vs

The State rep.by
The Inspector of Police,
West Police Station
Kumbakonam
Thanjavur District
(Crime No.1192 of 2021).

... Respondent/Complainant

For Petitioners : Mr.PR.BOOMEERAJAN,
Advocate.

For Respondent : Mr.T.SENTHILKUMAR,
Government Advocate (Crl.Side)

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

PRAYER :-

For Bail in Crime No.1192 of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

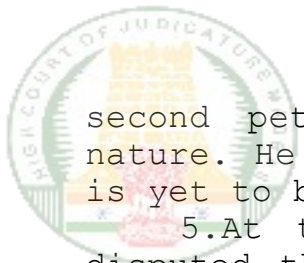
The petitioners/A1 & A2, who were arrested on 30.08.2021 for the offence under Sections 4(1)(aa), 4(1)(i) and 4(1-A) of Tamil Nadu Prohibition Act, in Crime.No.1192 of 2021 on the file of the respondent police, seek bail.

2.The case of the prosecution is that on 30.08.2021 the petitioners were found in illegal possession of 251 numbers of brandy liquor bottles. Hence, the complaint.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocents, they have not committed any offence as alleged by the prosecution, they are in jail from 30.08.2021 and hence, he seeks for grant of bail.

4. The learned Government Advocate (Crl. Side) would submit that the first petitioner is having two previous cases and the

<https://hcservices.ecourts.gov.in/hcservices/>



second petitioner is having five previous cases of similar in nature. He would further submit that the investigation in this case is yet to be completed.

5. At this juncture, the learned counsel for the petitioners disputed the same and claimed that the respondent police have not mentioned about the antecedents as against the first petitioner before the Court of Sessions. When the bail application is moved before this Court, they are projecting as if the first petitioner is having two previous cases.

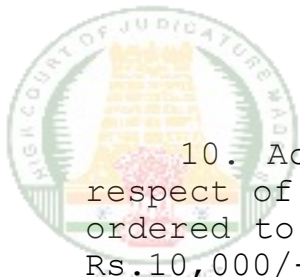
6. Based on the submission of the learned counsel for the petitioners, this Court has perused the order of the learned Principal Sessions Judge, Thanjavur in Crl.M.P.No.4126 of 2021, dated 04.09.2021, in which, the very same respondent police reported that the first petitioner is not having any previous case and reported before this Court that the first petitioner is having two previous cases. So far as the second petitioner is concerned, the officer who visited the Sessions Court has furnished the information that he is having 10 previous cases whereas before this Court, the respondent police has referred only five cases. It is surprised, how the respondent police is giving instruction to the Court, whether to their whims and fancies or depending upon any other factor, has to be ascertained by the Superintendent of Police and appropriate action shall be taken.

7. The second petitioner is having five previous cases and it was also reported before the Court of Sessions that the second petitioner has involved in 10 cases. The detail furnished by the respondent police as against the second petitioner is as follows:

Sl.No.	Cases
1.	Crime No.197 of 2021 for the offence under Section 4 (1) (a) TNP Act-NTF
2.	Crime No.116 of 2021 for the offence under Section 4 (1) (k) TNP Act -NTF
3.	Crime No.1813 of 2020 for the offence under Section 4(1) (a) TNP Act -NTF
4.	Crime No.1761 of 2020 for the offence under Section 4(1) (a) TNP Act -NTF
5.	Crime No.1716 of 2020 for the offence under Section 4(1) (a) TNP Act-NTF

8. Considering the antecedents of the second petitioner, this Court is not inclined to grant bail. Accordingly, this Criminal Original petition is dismissed as against the second petitioner.

9. However, considering the facts and circumstances of the case, the nature of offence committed by the first petitioner and also the period of incarceration, this Court is inclined to grant bail to the first petitioner, however, with stringent conditions.



10. Accordingly, this Criminal Original Petition is allowed in respect of the first petitioner alone and the first petitioner/A1 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 Judicial Magistrate No.I, Kumbakonam, Thanjavur District and on further condition that:

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity.

[b] the first petitioner/A1 shall appear before the respondent police daily twice ie. at 10.30 a.m and 05.30 p.m until further orders.

[c] the first petitioner/A1 shall not tamper with the evidence or witness either during investigation or trial.

[d] the first petitioner/A1 shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the first petitioner/A1 in accordance with law as if the conditions have been imposed and the first petitioner/A1 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]**.

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

11. Accordingly, this Criminal Original Petition is partly allowed.

12. The Registry is directed to mark a copy of this order to the Superintendent of Police, Thanjavur District.

sd/-

15/09/2021

/ 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
KUMBAKONAM, THANJAVUR DISTRICT.
2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.
3. THE OFFICER INCHARGE
SUB JAIL, THIRUVIDAIMARUTHUR, THANJAVUR.
4. THE INSPECTOR OF POLICE,
WEST POLICE STATION
KUMBAKONAM
THANJAVUR DISTRICT
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:

THE SUPERINTENDENT OF POLICE
THANJAVUR DISTRICT.

ORDER

IN

CRL OP(MD) No.13542 of 2021
Date :15/09/2021

SA/PN/SAR.3/15.09.2021/4P/7C