



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 08/10/2021
PRESENT

WEB COPY

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.15520 of 2021

1.Rajesh
2.Karthikeyan ... Petitioners/Accused Nos.1 and 2

Vs

The State rep.by,
The Inspector of Police,
Ammapettai Police Station,
Thanjavur District.
(Crime No.893 of 2021) ... Respondent/Complainant

For Petitioners : Mr.K.M.Karunakaran
Advocate.

For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor

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

PRAYER :-For Bail in Crime No.893 of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners/Accused, who were arrested on 25.09.2021 in connection with the case in Crime No.893 of 2021, registered for the offence under Sections 4(1)(a), 4(1)(i), 4(1-A) of Tamilnadu Prohibition Act, on the file of the respondent police, seek bail.

2.The case of the prosecution is that on 25.09.2021, the petitioners were found in illegal possession of 132 numbers of 180 ml TASMAL brandy liquor bottles, 19 numbers of 650 ml TASMAL brandy liquor bottles, 2 numbers of 375 ml TASMAL brandy liquor bottles and one five litre Can with 3 litres of TASMAL brandy. Hence, the complaint.

3.Learned Counsel for the petitioners submit that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution, but, a false case have been foisted as against them. However, they are languishing in jail from 25.09.2021. Hence, he prayed for grant of bail.

4.The learned Additional Public Prosecutor appearing for the respondent police would submit that the first petitioner is having



fourteen previous cases to his credit and no previous case is pending against the second petitioner. He would further submit that the investigation in this case is yet to be completed.

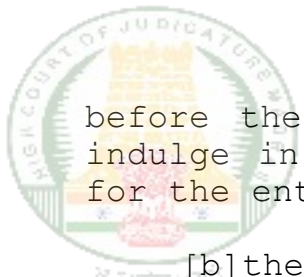
5.The learned counsel for the petitioners, in response, submitted that the petitioners will file an undertaking affidavit before the respondent police as well as before the trial Court that they would not indulge in any other offence in future.

6.Considering the facts and circumstances of the case, their readiness to file an undertaking affidavit and also the period of incarceration, this Court is inclined to grant bail to the petitioners. Accordingly, this Criminal Original Petition is allowed on condition that the petitioners shall pay a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) each, in favour of the District Green Committee, Thanjavur District, without prejudice to their rights and contentions before the trial Court and produce the receipt / acknowledgment before the learned Judicial Magistrate, Papanasam.

7.The District Green Committee, which was formed as per the Government Order in G.O.Ms.No.39, Environment, Climate Change and Forest (FR.13) Department, dated 02.07.2021, pursuant to the directions of this Court in W.P.No.11094 of 2021, shall utilize the amount paid by the petitioners for plantation of trees on either side of the road, tree guard, drip irrigation, manure, etc., with public participation, including, NGOs, Confederation of Industries, Rotary Clubs, Lions Clubs, School Students, College Students, Self Help Groups, labours under MGNREGS and any other volunteers, etc., to achieve 100% survival rate of the planted trees. The State Green Committee shall extend their support in this regard by recommending the correct variety / species of trees, in accordance with the soil type and climatic conditions and also for the maintenance. The maintenance of the trees planted has to be reviewed by the District Green Committee, after two years and necessary appreciations have to be made to the stakeholders concerned in the form of certificates.

8.On production of receipt / acknowledgement for having paid the amount before the District Green Committee, the first petitioner/A1 is ordered to be released on bail on his executing a bond for a sum of Rs.1,00,000/-(Rupees one lakh only), and the second petitioner/A2 is ordered to be released on bail on his executing 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, Papanasam, and on further conditions that:

[a] the persons who are giving sureties should be respectable persons in their locality, either Government Servants or elected people representatives or the persons who are having permanent



before the trial Court by ensuring that the petitioners will not indulge in any other offence in future and they will be available for the entire trial;

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

[c] the petitioners shall not misuse the liberty granted to them by this Court and if the petitioners involve in any further offence, the respondent police shall inform the same to the concerned Court. The concerned Court shall impound the sureties amount;

[d] the petitioners shall report before the respondent police daily at 10.30., a.m and 5.30 p.m., until further orders.

[e] the petitioners shall file an undertaking affidavit before the trial Court as well as the respondent police that they will appear before the Court regularly without filing any application to condone his absence on any date of hearing;

[f] the petitioners shall not abscond during the trial;

[g] the petitioners shall not tamper with the evidence or witness during trial;

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

[i] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-

08/10/2021

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

ORDER
IN
CRL OP(MD) No.15520 of 2021
Date :08/10/2021

TTA
MK/SKN/SAR.IV/08.10.2021/4P/7C