



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 27/10/2021
PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . No.15986 of 2021

Mariappan ... Petitioner/Sole Accused

Vs

The State rep.by
The Sub Inspector of Police,
M.Pudupatti Police Station,
Virudhunagar District.
Cr.No.143/2021.

... Respondent/Complainant

For Petitioner : Mr.M.JOTHIBASU,
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.143 of 2021 on the file of the Respondent police.

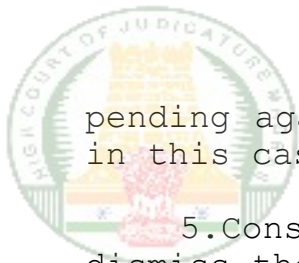
ORDER : The Court made the following order :-

The petitioner/sole accused, who was arrested on 04.09.2021 for the alleged offence punishable under Section 4(1-A) of Tamil Nadu Prohibition Act, 1937 in Crime No.143 of 2021 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner was found in illegal possession of 45 numbers of liquor bottles. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is an innocent and he has not committed any offence as alleged by the prosecution.He is in judicial custody from 04.09.2021 and hence, he seeks for grant of bail to the petitioner.

4.The learned Additional Public Prosecutor appearing for the respondent opposed the grant of bail to the petitioner on the ground that the petitioner has involved in 36 cases of Prohibition Act cases, in which, 25 cases were ended in conviction and 11 cases are



pending against him. He would further submit that the investigation in this case is yet to be completed.

5.Considering the antecedents, when this Court was inclined to dismiss the bail application, the learned counsel for the petitioner submits that the petitioner has realised his mistake and he has filed an undertaking affidavit before this Court that he will not indulge in any other offence in future.

6.Taking into consideration of the facts and circumstances of the case, the undertaking affidavit filed by the petitioner and also the period of incarceration, this Court is inclined to grant bail to the petitioner, however, with stringent conditions.

7. Accordingly, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.1,00,000/- (Rupees one lakh only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Sivakasi and on further condition 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 business establishments and the sureties shall file an affidavit by ensuring that the petitioner 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 Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

[c] The petitioner shall not misuse the liberty granted to him by this Court and if the petitioner involves 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 petitioner shall report before the respondent police daily at 10.30 a.m until further order.

[e] the petitioner shall file an undertaking affidavit before the respondent police as well as before the trial Court that he will not indulge in any other offence in future;

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

[g] the petitioner 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 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]**.



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

sd/-
27/10/2021

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/ /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.II
SIVAKASI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
- 3 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.
- 4 THE SUB INSPECTOR OF POLICE,
M.PUDUPATTI POLICE STATION,
VIRUDHUNAGAR DISTRICT.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.G.M.LAW OFFICE, SR.No.7475 (Date:27/10/2021)

**ORDER
IN**

CRL OP(MD) No.15986 of 2021
Date :27/10/2021

SA/SKN/SAR.2/27.10.2021/3P/7C