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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2022

CORAM:

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

Cr1.O.P.No.204 of 2022

1. Kasirajan ... Petitioners/A1 & A2
2. Rajkumar

Vs.

State: Rep. By ... Respondent/Complainant
The Sub- Inspector of Police,
Thoothur Police Station,
Ariyalur District.
(Crime No. 183 of 2021)

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to enlarge the petitioners/accused on bail in Crime No. 183 of 2021 on the file of the respondent police.

For Petitioners : M/s.V.Illanchezian

For Respondent : Mr.N.S.Suganthan
Government Advocate (Cr1.Side)

ORDER

(The case has been heard through video conference)

The petitioners who were arrested and remanded to judicial custody on 19.12.2021 for the offences under **Sections 4(1)(aa) Transport r/w 4(1-A) of the Tamil Nadu Prohibition Act**, in Crime No.183 of 2021, on the file of the respondent police, seek bail.

2. The case of the prosecution is that on 18.12.2021 at about 7.30 p.m., during regular vehicle check up, the respondent police found that the 1st petitioner in possession of 204 bottles of SNJ Brandy and the 2nd petitioner in possession of 48 Seamens Pride Bottle, 89 Cardinal Brandy Bottles, 4 day night bottles, 2 Black Pearl Brandy bottles and 3 Golden wats Brandy bottles in total 146 bottles along with 24 Kingfisher beer bottles. Hence, the complaint.



3. The learned counsel for the petitioners would submit that the petitioners have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case. He would further submit that the petitioners have been suffering incarceration for more than 15 days from 19.12.2021 and that the petitioners on their own violation ready to deposit a substantial amount to any charitable institute as may be directed by this Court and would pray for grant of bail to the petitioners.

4. The learned Government Advocate (Crl. Side) vehemently opposed stating that the petitioners/A1 and A2 illegally transported liquor bottles worth about Rs.15,000/- and that the 1st petitioner/A1 has got 4 previous cases but admits that the 2nd petitioner/A2 has got no previous case and the investigation is almost completed.

5. Considering the submission made by the learned counsel for the petitioners, this Court is of the opinion that the petitioners shall be directed to make a non refundable deposit of **Rs.15,000/- (Rupees Fifteen Thousand Only)**, to the credit of the **Registered Advocate Clerks Association, Ariyalur**, without prejudice to their 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 petitioners 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 facts and circumstances of the case and that the investigation is almost completed and also considering the period of incarceration undergone by the petitioners, this Court is inclined to grant bail to the petitioners with certain conditions.

(a) Accordingly, the Petitioners are ordered to be released on bail on executing their **own bond for a sum of Rs.10,000/- (Rupees ten thousand only), before the Superintendent of the concerned prison**, in which the Petitioners have been confined and thereafter on their release;

(b) the petitioner shall make non-refundable deposit a sum of **Rs.15,000/- (Rupees Fifteen Thousand Only)** through demand draft to the **Registered Advocate Clerks Association, Ariyalur**, without prejudice to their defence before the trial Court and on such deposit, each of petitioners shall execute **two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only) each**,



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before the learned Judicial Magistrate II, Ariyalur, within 15 days from the date of commencement of the Court's normal functioning, failing which the bail granted by this Court shall stand dismissed automatically;

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(d) the petitioners shall report before the respondent police on every Wednesday at 10.30 a.m. until further orders.

(e) the petitioners shall not commit any offences of similar nature;

(f) the petitioners shall not abscond either during investigation or trial;

(g) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(h) on breach of any of the aforesaid conditions, the learned Judicial 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 absconds, a fresh FIR can be registered under Section 229A IPC.

6. With the above directions, this Criminal Original Petition is ordered.

-sd/-
06/01/2022

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.



1 THE JUDICIAL MAGISTRATE II,
ARIYALUR.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE CHIEF JUDICIAL MAGISTRATE
ARIYALUR. [FOR INFORMATION]

4 THE SUB INSPECTOR OF POLICE,
THOOTHUR POLICE STATION,
ARIYALUR DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

6 THE REGISTERED ADVOCATE CLERK ASSOCIATION,
ARIYALUR DISTRICT.

CC to M/S.V.ILLANCHEZIAN, Advocate on payment of necessary
charges

CRL OP.204/2022

Date :06/01/2022

TA-07/01/2022