

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2022

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

Crl.O.P.No.2775 of 2022

Asik Rahman
Ajmal Khan

...Petitioners

Vs.

The State rep. by
The Inspector of Police
D1, Triplicane Police Station

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to enlarge the petitioners on bail in Crime No.10 of 2022 on the file of the respondent police.

For Petitioners : Mr.D.Alexis Sudhakar

For Respondent : Ms.G.V.Kasthuri
Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioners who were arrested and remanded to judicial custody on 06.01.2022 for the offences under Sections 294(b), 353, 328 of IPC read with 6 and 24(1) of COTPA Act, Section 4(1) (a) of TN Prohibition Act, in Crime No.10 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 06.01.2022, the petitioners were found in possession of 5761 packets of banned tobacco products, Cigarettes and Liquor bottles. Hence, the complaint.

3.The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. However, the petitioners are ready to abide by any condition imposed by this Court. He would further submit that after arresting the petitioners on 06.01.2022, the material objects which are necessary for completing the investigation are all recovered. Hence, he would pray for grant of bail to the petitioners.

4.The learned Additional Public Prosecutor appearing for the respondent police would fairly admits that the contraband which were possessed by the petitioners are all recovered. However, she opposed to release the petitioners on bail.

5. The submissions made by the learned Counsel on either side are considered.

6. The averments found in the FIR discloses the fact that during the relevant point of time, the petitioners is in birthday party, it shows that they were in possession of liquor and Pan Masala for self consumption. As of now, the prohibited contraband are all recovered. The petitioners are in judicial custody from 06.01.2022. Therefore, further custody is not necessary for completing the investigation. Considering the above said facts, 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 bonds 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 petitioners shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, before the Learned II-Metropolitan Magistrate, Egmore, Chennai, 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 daily at 10.30 a.m. for a period of 30 days and thereafter, as and when required for interrogation.

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

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

(g) the petitioner 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.

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

-sd/-

08/02/2022

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.

TO

1 NO.II METROPOLITAN MAGISTRATE
EGMORE, CHENNAI

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI (FOR INFORMATION)

3 THE INSPECTOR OF POLICE,
D1 TRIPLICANE POLICE STATION,
CHENNAI

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE JAILER, SUB JAIL,
MADHURANDHAGAM

CC to M/S.D.ALEXIS SUDHAKAR Advocate on payment of necessary charges Sr.2085

CRL OP.2775/2022

Date :08/02/2022

RVR 09/02/2022