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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Cr1.O.P.No.4385 of 2022

Kumar

...Petitioner /Accused

versus

The State of Tamilnadu
rep. by Inspector of Police,
Brammadesam Police Station,
Villupuram.
(Crime No.43 of 2022)

...Respondent /Complainant

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C., praying to enlarge the petitioner on bail pending investigation in Crime No.43 of 2022 on the file of the respondent police.

For Petitioner : Mr.S.N.Subramani

For Respondent : Mrs.G.V.Kasthuri

Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 05.02.2022 for the offences punishable under **Sections 4(a) and 5 of Explosive Substances Act, 1908** in Crime No.43 of 2022, 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 1 number of Gellatin and 410 numbers of bullets. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that, as of now, the explosive materials, which were possessed by the petitioner, are all recovered. The petitioner is the first time offender and he is in judicial custody from 05.02.2022 onwards. Hence, he prays for bail.



4. The learned Additional Public Prosecutor appearing for the respondent police raised objection stating that investigation is pending. However, she fairly admits that, the explosive materials, which were possessed by the petitioner, are all recovered by the Investigation Officer at the time of securing the petitioner and also she admits that the petitioner is the first time offender.

5. Considered the submissions made by the learned counsel appearing on either side. The respondent police registered a case as against the petitioner for the offences punishable under Sections 4(a) and 5 of Explosive Substances Act, 1908. Though the quantity of the explosive materials, which are all possessed by the petitioner were recovered and the same was hid by the petitioner for using the same in quarry. Therefore, after recovering the explosive materials, further custody of the petitioner is not necessary for completing the investigation.

6. Therefore, taking note of the above said aspects into consideration and having regard to the nature of offence committed by the petitioner and also by considering the period of incarceration, this Court is inclined to grant bail to the petitioner subject to certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail subject to the following conditions;

(a) the petitioner shall execute 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 No.II, Tindivanam;

(b) 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;

(c) the petitioner is directed to appear before the respondent police daily at 10.00 a.m. until further orders;

(d) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(e) on breach of any of the aforesaid conditions, the learned Judicial 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];



(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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-sd/-
23/02/2022

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 THE JUDICIAL MAGISTRATE,
NO.II, TINDIVANAM, VILLUPURAM.

2 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
BRAMMADESAM POLICE STATION,
VILLUPURAM.

5 THE OFFICER INCHARGE
SUB JAIL, TINDIVANAM.

+1 CC to M/S.S.N.SUBRAMANI Advocate on payment of necessary charges SR.NO.2817

CRL OP.4385/2022

Date :23/02/2022

TA-24/02/2022