



Crl.O.P.No.26822 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2022

CORAM

THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.O.P.No.26822 of 2022

Arivazhagan

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Kallakurichi Police Station,
Kallakurichi.

(Crime No.470/2022).

... Respondent

PRAYER: Criminal Original Petitions filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in connection with the Crime No.470
of 2022 pending investigation on the file of the respondent Police.

For Petitioner : Mr.P.Paramasiva Doss

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl.Side)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 13.10.2022, for the offences punishable under Sections 294(b), 353, 307, 294A of IPC and Sections 5, 7(3) of Lotteries Regulation Act, 1998 in Crime No.470 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the de-facto complainant/Sub Inspector of Police is that on 13.10.2022, on receiving a specific information, when the de-facto complainant along with his team were on check up near bus stand, they found the petitioner was selling banned lotteries and it was questioned by the de-facto complainant, the accused abused him and attempted to assault him with wooden log and fortunately he escaped from it. The respondent police have seized the lotteries and arrested the accused. Hence, the case.

3. The learned counsel appearing for the petitioner would submit that since the petitioner having several cases for the offence of selling banned lottery tickers, the respondent police have foisted this case against



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him in order to curtail his illegal activities. He would further submit that the petitioner is in custody from 13.10.2022 and hence, he prays for grant of bail to the petitioner.

4. The Government Advocate (Crl.Side) appearing for the respondent police would submit the respondent Police have found that the petitioner was selling banned lotteries and when it was questioned by the de-facto complainant, the accused abused him in a filthy language and attempted to assault him with wooden log. He would further submit that the petitioner is a habitual offender in selling banned lotteries against whom there are 8 previous cases. Hence, he vehemently oppose for grant of bail to the petitioner.

5. In reply, the learned counsel for the petitioner would submit that the petitioner has been acquitted in two of the previous cases and he is ready to abide by any stringent conditions that may be imposed by this Court. Therefore, he prays for grant of bail to the petitioner.



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6. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) and perused the materials available on record.

7. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsel and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

8. Accordingly, the petitioner 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 No.I, Kallakurichi** and on further conditions that:

[a] 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;



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[b] the petitioner shall stay at Tirunelveli and report before the Inspector of Police, Panagudy Police Station, everyday at 10.30 a.m. and 5.30 p.m., until further orders;

[c] the petitioner shall not abscond either during investigation or trial;

[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 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 abscond, a fresh FIR can be registered under Section 229A IPC.

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To

1. The Judicial Magistrate No.I,
Kallakurichi.
2. The Inspector of Police,
Kallakurichi Police Station,
Kallakurichi.
3. The Sub Jail,
Kallakurichi.
4. The Inspector of Police,
Panagudy Police Station,
Tirunelveli.
5. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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