



Crl.O.P.No.27588 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2022

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

Crl.O.P.No.27588 of 2022

Dhanapal

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Gangavalli Police Station,
Salem District.

(Crime No.98/2022).

... 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.98
of 2022 pending investigation on the file of the respondent Police.

For Petitioner : Mr.D.Ramesh Kumar

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 26.08.2022, for the offences punishable under Sections 4(1)(aaa) & 4(1-A) of Tamil Nadu Prohibition Act, in Crime No.98 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that when the respondent police and their team were on their routine patrol duty, the petitioner was found to be in illegal possession of 115 litres of illicit arrack. Hence, the case.

3. The learned counsel appearing for the petitioner would submit that this is the second bail petition before this Court and this Court on an earlier occasion dismissed the bail application of the petitioner in CrI.O.P.No.23217 of 2022 dated 23.09.2022 on the ground that he has got several previous cases. He would also submit that without prejudice, the petitioner is prepared to deposit Rs.50,000/- to any welfare scheme of the Government and he is prepared to abide by any stringent conditions that may be imposed by this Court and hence, he prays for grant of bail to the petitioner.



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4. The Government Advocate (Crl.Side) appearing for the respondent police would submit that the petitioner was found in illegal possession of 115 litres of illicit arrack. He would also submit that 26 previous cases are pending as against the petitioner and he is a history sheeted rowdy in H.S.No.262 of 2022 on the file of the respondent. Therefore, he would vehemently oppose to grant bail to the petitioner.

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

6. In order to curb the illegal activities of transporting illicit arrack, this Court is of the opinion that the petitioner shall deposit a sum of Rs.50,000/- (Rupees Fifty thousand only) each as non refundable deposit to **"Rehoboth - Home for mentally challenged homeless women, No.22, Viswas Nagar, Koluthuvancherri, Paraniaputhur, Chennai"**, without prejudice to his rights and contentions before the trial Court.



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7. Merely, because the petitioner have deposited the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

8. Taking into consideration the facts of the case and the submissions made by the learned counsel and also taking note of the fact that the petitioner is prepared to deposit Rs.50,000/- to any welfare scheme of the Government, this Court is inclined to grant bail to the petitioner with certain conditions.

9. Accordingly, the petitioner is ordered to be released on bail on condition to make a non refundable deposit of **Rs.50,000/- (Rupees Fifty thousand only)** by way of **Demand Draft/RTGS/NEFT to the "Rehoboth-Home for mentally challenged homeless women, No.22, Viswas Nagar, Koluthuvancherri, Paraniaputhur, Chennai, vide Account Rehoboth - Punjab National Bank, Moulivakkam Branch, A/c. No.05812010015060, IFSC Code : PUNB0058110, MICR Code : 600024081"**, without prejudice to his rights and contentions before the trial Court, on such deposit and



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production of proof, 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.II, Aathur, Salem**, 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;

[b] the petitioner shall report before the respondent Police everyday at 10.30 a.m. and 5.30p.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]***;



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

11.11.2022

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To

1. The Judicial Magistrate No.II,
Aathur, Salem.
2. The Inspector of Police,
Gangavalli Police Station,
Salem District.
3. The Sub Jail,
Aathur, Salem
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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