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Crl.O.P.No.28992 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2022

CORAM

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

Crl.O.P.No.28992 of 2022

Mahendran

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Ayilpatty Police Station.
Namakkal District.

(Crime No.144/2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in connection with the Crime No.144
of 2022 pending investigation on the file of the respondent Police.

For Petitioner : Mr.P.Lakshmikanthan

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 13.11.2022 for the offences punishable under Sections 4(1)(a) & 4(1-A) of Tamil Nadu Prohibition Act, in Crime No.144 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that while the respondent Police and his team were on their routine patrol duty, they found that the petitioner was in possession of 9 bottles of Brandy (each containing 180 ml) without any valid licence. Hence the case.

3. The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. He further submitted that the petitioner is in custody from 13.11.2022, hence, he prayed to grant bail to the petitioner.



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4. The Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioner was found in illegal possession of 9 bottles of Brandy (each containing 180 ml) without any valid licence. He further submitted that one previous case is pending as against the petitioner. Therefore, he opposed to grant bail to the petitioner.

5. At this juncture, the learned counsel for the petitioner submitted that without prejudice to his defense, the petitioner is ready and willing to deposit an amount of Rs.25,000/- as non- refundable deposit to any welfare scheme of the Government or to any shelter home and he is ready to abide by any stringent conditions that may be imposed by this Court. Hence, he prays for grant of bail to the petitioner.

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

7. In order to curb the illegal activities of selling illicit liquor, this Court is of the opinion that the petitioner shall deposit a sum of Rs.25,000/-



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(Rupees Twenty Five thousand only) as a non refundable deposit to "The Dean/Medical Officer, Government Medical College Hospital, Namakkal", without prejudice to his rights and contentions before the trial Court.

8. Merely, because the petitioner has 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.

9. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsel that the petitioner is prepared to deposit Rs.25,000/- to any welfare scheme of the Government and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

10. Accordingly, the petitioner is ordered to be released on bail on condition to make a non refundable deposit of **Rs.25,000/- (Rupees Twenty Five thousand only)** by way of **Demand Draft/RTGS/NEFT to the "The Dean/Medical Officer, Government Medical College Hospital, Namakkal"** without prejudice to his rights and contentions before the trial



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Court, on such deposit and 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, Rasipuram** 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 daily at 10.30 a.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.

25.11.2022

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To

1. The Judicial Magistrate ,
Rasipuram.
2. The Inspector of Police,
Ayilpatty Police Station,
Namakkal District.
3. The Sub Jail,
Rasipuram, Namakkal.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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