



Crl.O.P.No.29550 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2022

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

Crl.O.P.No.29550 of 2022

Radhakrishnan

... Petitioner

Vs.

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

(Crime No.468/2022).

... 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.468
of 2022 pending investigation on the file of the respondent Police.

For Petitioner : Mr.E.C.Ramesh

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 18.09.2022 for the offences punishable under Sections 4(1)(a) & 4(1-A) of Tamil Nadu Prohibition Act, in Crime No.468 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 illegal possession of 15 numbers of Black Pearl Brandy bottles each containing 180 ml. Hence the case.

3. The learned counsel appearing for the petitioner submitted that this is the second bail application before this Court and this Court, had earlier dismissed the bail application filed by the petitioner in Crl.O.P.No.26202 of 2022 vide order dated 28.10.2022 stating that he has got several previous cases. He further submitted that the petitioner is in custody from 18.09.2022, 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 15 numbers of Black Pearl Brandy bottles (each containing 180 ml) of Tasmac Bar. He further submitted that this is the second bail application of the petitioner against whom there are 63 previous cases, in which 58 cases have already been disposed. Therefore, he vehemently 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.50,000/- 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.



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7. In order to curb the illegal activities of selling illicit arrack, this Court is of the opinion that the petitioner shall deposit a sum of Rs.50,000/- (Rupees Fifty thousand only) as a non refundable deposit to "The Dean/Medical Officer, Government Mohan Kumaramangalam Medical College Hospital, Salem", 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.50,000/- 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.



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10. 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 Dean/Medical Officer, Government Mohan Kumaramangalam Medical College Hospital, Salem"** without prejudice to his rights and contentions before the trial 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-V, 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 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,



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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.

30.11.2022

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To

1. The Judicial Magistrate-V,
Salem.
2. The Sub Inspector of Police,
Kondalampatty Police Station,
Salem District.
3. The Central Prison,
Salem.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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