



WEB COPY



Crl.O.P.No.29543 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2022

CORAM

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

Crl.O.P.No.29543 of 2022

1. Selvam

2. Chandran

... Petitioners

Vs.

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

(Crime No.256/2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioners on bail in connection with the Crime
No.256 of 2022 pending investigation on the file of the respondent Police.

For Petitioners : Mr.S.Shankar

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



Crl.O.P.No.29543 of 2022

WEB COPY

ORDER

The petitioners, who were arrested and remanded to judicial custody on 25.10.2022 for the offences punishable under Sections 4(1)(g) & 4(1-A) of Tamil Nadu Prohibition Act, in Crime No.256 of 2022 on the file of the respondent police, seek bail.

2. The case of the prosecution is that while the respondent Police and his team were on their routine patrol duty, wherein they found that the petitioners were indulging in the process of preparing illicit arrack and the respondent has seized about 15 litres of illicit arrack from them. Hence the case.

3. The learned counsel appearing for the petitioners submitted that the petitioners are innocent and they have been falsely implicated in this case. He further submitted that the petitioners are in custody from 25.10.2022, hence, he prayed to grant bail to the petitioners.



Crl.O.P.No.29543 of 2022

WEB COPY

4. The Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioners were indulged in preparing illicit arrack and 15 litres of illicit arrack were seized from them. He further submitted that there is no previous case as against the petitioners, however, he vehemently opposed to grant bail to the petitioners.

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

6. Heard the learned counsel for the petitioners 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 arrack, this Court is of the opinion that the petitioners shall deposit a sum of Rs.5,000/-



Crl.O.P.No.29543 of 2022

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

8. Merely, because the petitioners has deposited the said amount, it would not amount to admission of their 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 petitioners are prepared to deposit Rs.5,000/- to any welfare scheme of the Government and also considering the period of incarceration undergone by the petitioners, this Court is inclined to grant bail to the petitioners with certain conditions.

10. Accordingly, the petitioners are ordered to be released on bail on condition to make a non refundable deposit of **Rs.5,000/- (Rupees Five thousand only)** each by way of **Demand Draft/RTGS/NEFT** to "The **Dean/Medical Officer, Government Mohan Kumaramangalam Medical**



CrI.O.P.No.29543 of 2022

College Hospital, Salem" without prejudice to their rights and contentions before the trial Court, on such deposit and production of proof, the petitioners are ordered to be released on bail on their executing a separate bond for a sum of **Rs.25,000/- (Rupees Twenty Five thousand only) each** with **two sureties**, each for a like sum to the satisfaction of the **learned Judicial Magistrate-IV, 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 petitioners shall report before the respondent Police daily at 10.30 a.m., until further orders;

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

[d] the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court



Crl.O.P.No.29543 of 2022

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.

01.12.2022

ham

To

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



WEB COPY



Crl.O.P.No.29543 of 2022

A.D.JAGADISH CHANDIRA.,J.

ham

Crl.O.P.No.29543 of 2022

01.12.2022