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Crl.O.P.No.5438 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2023

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

Crl.O.P.No.5438 of 2023

Nagaraj

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Roshanai Police Station,
Villupuram District.

(Crime No.42 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner/accused on bail, in connection with the
Crime No.42 of 2023, pending investigation on the file of the respondent
Police.

For Petitioner : Mr.R.Sasikumar

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 14.02.2023 for the offences punishable under Sections 4(1-A) & 4(1)(a) of Tamil Nadu Prohibition Act and Sections 353, 332 & 506(ii) of IPC, in Crime No.42 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on receipt of a secret information, the respondent and his team conducted a search, during which, they found that the accused were illegally transporting 20 litres of ID arrack. The further allegation is that the accused have prevented the respondent from discharging their official duty. Hence the case.

3. Learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case, since he has got some previous cases of similar nature. He also submitted the the petitioner is in custody from 14.02.2023, hence, he prayed to grant bail to the petitioner.



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4. Learned Additional Public Prosecutor appearing for the respondent police submitted that the petitioner (A2) along with other accused were illegally transported of 20 litres of ID Arrack in their two wheeler. He further submitted that 6 previous cases are 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 similarly placed co-accused has been granted bail by this Court in Crl.O.P.No.3700 of 2023 vide order dated 16.02.2023, with a direction that the petitioner, without prejudice to his defense and contention, is directed to deposit a sum of Rs.15,000/- as non-refundable deposit to the credit of Madras High Court Advocate Clerks Welfare Association. He further stated that the petitioner is also ready to comply with the aforesaid condition and also ready to abide by any other 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 Additional Public Prosecutor and perused the materials available on record.



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7. On considering the voluntary submission made by the learned counsel for the petitioner, the petitioner is directed to deposit a sum of Rs.15,000/- (Rupees Fifteen Thousand only) to the credit of Madras High Court Advocate Clerks Welfare Association, 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, the submissions made by either side of the parties and also taking note of the fact that the petitioner has come forward to deposit an amount of Rs.15,000/- to the credit of “Madras High Court Advocate Clerks Welfare Association”, 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.15,000/- (Rupees Fifteen**



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Thousand only) to the credit of Madras High Court Advocate Clerks Welfare Association, Chennai, A/c No. 484077244, Indian Bank, High Court Branch, IFSC Code : IDIB000M157", 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.10,000/- (Rupees Ten thousand only) with **two sureties**, for a like sum to the satisfaction of the **learned Judicial Magistrate No.I, Tindivanam**, 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., 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



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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.

08.03.2023

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To

1. The Judicial Magistrate No.I,
Tindivanam.
2. The Inspector of Police,
Roshanai Police Station,
Villupuram District.
3. The Sub Jail,
Tindivanam.
4. The Public Prosecutor,
High Court of Madras.



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