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Crl.O.P.No.7588 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2023

CORAM

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

Crl.O.P.No.7588 of 2023

P. Ganesan

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
PEW Kancheepuram Police Station,
Kancheepuram District.

(Crime No.103 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.103 of 2023, pending investigation on the file of the respondent
Police.

For Petitioner : Mr.R.Sasikumar

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



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ORDER

(This case has been heard through Video Conferencing)

The petitioner, who was arrested and remanded to judicial custody on 27.02.2023 for the offences punishable under Sections 4(1)(aaa) r/w 4(1)(A) of Tamil Nadu Prohibition Act, r/w Sections 6 and 11 of Tamil Nadu Rectified Spirit Rules, 2000, in Crime No.103 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on receipt of the secret information, the respondent and his team went to the graveyard of Vengudi Village, where, they found that the accused were in illegal possession of 315 litres of illicit arrack. Hence the case.

3. Learned counsel appearing for the petitioner submitted that the petitioner, aged about 55 years, is an innocent person and he has been falsely implicated in this case, since he has got some previous cases. He also submitted that the petitioner is in custody from 27.02.2023, hence, he prayed to grant bail to the petitioner.



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4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioner along with other accused was found to be in illegal possession of 315 litres of illicit arrack. He further submitted that the petitioner is a habitual offender having 45 previous cases of similar nature. Therefore, he vehemently opposed for grant of bail to the petitioner.

5. At this juncture, the learned counsel for the petitioner submitted that the petitioner, without prejudice to his defense and contention, is ready and willing to deposit an amount of Rs.50,000/- to any welfare scheme run by the Government. He further stated that the petitioner is 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 Government Advocate (Crl.Side) 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.50,000/- (Rupees Fifty Thousand only) directly to the "The Head Master, Panchayat Union Middle School, Vengathur, Thiruvallur District", without prejudice to his rights and contentions before the trial Court, so as to enable the Head Master to use the aforesaid amount for the purpose of purchasing the things useful for children.

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 and also taking note of the fact that the petitioner has come forward to deposit an amount of Rs.50,000/- directly to "The Head Master, Panchayat Union Middle School, Vengathur, Thiruvallur District", 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)** directly to the **"The Head Master, Panchayat Union Middle School, Vengathur, Thiruvallur District"**, without prejudice to his rights and contentions before the trial Court, so as to enable the Head Master to use the aforesaid amount for the purpose of purchasing the things useful for children, 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.II, Kancheepuram**, 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;



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[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]***;

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

13.04.2023

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To

1. The Judicial Magistrate No.II,
Kancheepuram.
2. The Inspector of Police,
PEW Kancheepuram Police Station,
Kancheepuram District.
3. The Central Prison,
Vellore.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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