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Crl.O.P.No.8877 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2023

CORAM

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

Crl.O.P.No.8877 of 2023

Elumalai @ Ezhumalai

... Petitioner

Vs.

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

(Crime No.288 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.288 of 2023, pending investigation on the file of the respondent
Police.

For Petitioner : Mr.S.Silambuselvan

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 06.04.2023, for the offences punishable under Sections 4(1)(aaa) r/w 4(1-A)(ii) of Tamil Nadu Prohibition Act, r/w Sections 6 and 7 of Tamil Nadu Rectified Spirit Rules, 2000, in Crime No.288 of 2023, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that when the respondent and his team were on their regular patrol duty, they found that the accused were in illegal possession of 4375 litres of I.D arrack. 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. He also submitted that the petitioner was earlier arrested on 22.02.2023 in connection with Crime No.212 of 2023 on the file of the PEW, Polur Police Station, during which, he was remanded in this case through prison transit warrant on 06.04.2023.



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He also submitted that the petitioner was arrested only based on the confession statement recorded from other accused. He further submitted that the petitioner has been already granted by this Court in Crime No.212 of 2023 in Crl.O.P.No.8068 of 2023 dated 13.04.2023, hence, he prayed to grant bail to the petitioner.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioner (A8) along with other accused was found to be in illegal possession of 4375 litres of I.D. arrack. He further submitted that the petitioner is a habitual offender having 14 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.20,000/- 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.



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

7. On considering the voluntary submission made by the learned counsel for the petitioner, the petitioner is directed to deposit a sum of Rs.20,000/- (Rupees Twenty Thousand only) to the credit of "The Dean/Medical Officer, Government District Head Quarters Hospital, Tiruvannamalai", 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 the learned counsel on either side and also taking note of the fact that the petitioner has come forward to deposit an



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amount of Rs.20,000/- to the credit of "The Dean/Medical Officer, Government District Head Quarters Hospital, Tiruvannamalai", 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.20,000/- (Rupees Twenty Thousand only)** directly to the credit of "**The Dean/Medical Officer, Government District Head Quarters Hospital, Tiruvannamalai**", without prejudice to his rights and contentions before the trial Court, so as to enable Dean/Medical Officer to use the aforesaid amount for the purpose of treating the alcohol influenced patients, 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.2, Tiruvannamalai**, 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;



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[b] the petitioner shall report before the Inspector of Police, PEW Polur Police Station, Tiruvannamalai, 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 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.

24.04.2023

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To

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



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A.D.JAGADISH CHANDIRA.,J.

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