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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2023

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

Crl.O.P.No.12404 of 2023

Anthony Xaviyar ... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Thiruvannamalai Town Police Station,
Thiruvannamalai District.

(Crime No.242 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.242 of 2023, pending investigation on the file of the respondent Police.

For Petitioner : Mr.R.Balakrishnan

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

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O R D E R

The petitioner, who was arrested and remanded to judicial custody on 18.05.2023 for the offences punishable under Sections 4(1)(a) r/w 4(1-A)(ii) of Tamil Nadu Prohibition Act, in Crime No.242 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 was in illegal possession of 15 litres of ID 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 further submitted that the petitioner is in custody from 18.05.2023 and he is ready to abide by any stringent conditions that may be imposed by this Court. Therefore, he prayed for grant of bail to the petitioner.

4. Learned Government Advocate (Crl.Side) appearing for the respondent Police submitted that the petitioner/accused was found to be in

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illegal possession of 15 litres of ID arrack. He further submitted that nine previous cases of similar nature are pending as against the petitioner. Hence, he 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 defence and contention, is ready and willing to deposit an amount of Rs.25,000/- to any welfare scheme run by the Government. Hence, he prayed for grant of bail to the petitioner.

6. Heard the learned Counsel for the Petitioner and the learned Government Advocate (Crl.Side) for the respondent Police 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.25,000/- (Rupees Twenty Five Thousand only) to the credit of " Manonmani Trust", without prejudice to his rights and contentions before the trial Court.

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8. Merely, because the petitioner deposits 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 considering the period of incarceration undergone by the petitioner, 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.25,000/- (Rupees Twenty Five Thousand only)** directly to the credit of **"Manonmani Trust, Account Number : 9945983362, IFSC Code : KKBK0000469, Kotak Mahindra Bank, Anna Nagar Branch"**, 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**, each for a like sum to the satisfaction of the **learned Judicial Magistrate No.I, Tiruvannamalai,** and on further conditions that:

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[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 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.

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A.D.JAGADISH CHANDIRA.,J.

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To

1. The Judicial Magistrate No.I,
   Tiruvannamalai.

2. The Inspector of Police,
   Tiruvannamalai Town Police Station,
   Tiruvannamalai District.

3. The Central Prison,
   Vellore.

4. The Public Prosecutor,
   High Court of Madras.

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