



Crl.O.P.No.12789 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2023

CORAM

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

Crl.O.P.No.12789 of 2023

Balaji @ Kavibalaji

... Petitioner

Vs.

State Rep by
Inspector of Police
Thiruvannamalai East Police Station
Thiruvannamalai
Crime No.215 of 2023

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in Crime No.215 of 2023 on the file
of the respondent police.

For Petitioner : Mr.P.Kilavarasan

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 **13.04.2023** for the offences punishable under Sections 4(1)(a), read with 4(1-A) (ii) of Tamil Nadu Prohibition Act, and 8(c), 20(b)ii(A) of NDPS Act, in Crime No.215 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner was found in possession of 20 liters of I.D. arrack and 120 grams of Ganja. Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He further submitted that this is the 2nd application for bail and the earlier application filed by the petitioner was dismissed by this Court by order dated 26.04.2023 in CrI.O.P.No.9083 of 2023 on the ground that the petitioner was arrested recently on 13.04.2023 and that he was having some previous cases against him. He further submitted that the petitioner has been suffering incarceration for more than 55 days from 13.04.2023. Hence, he prayed for grant of bail to the petitioner.



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4. The learned Government Advocate (Crl. Side) vehemently opposed for grant of bail to the petitioner stating that the petitioner is a habitual offender and he is already involved in 6 previous cases out of which, 2 cases are similar in nature.

5. At this Juncture, the learned counsel for the petitioner would submit that the petitioner in order to show his bonafide, is ready and willing to deposit a substantial amount to any welfare Scheme run by the Government as may be directed by this Court and would seek for bail.

6. The respondent has filed a detailed counter.

7. 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 including the FIR and counter.

8. Considering the above facts and circumstances of the case, the submissions made by the learned counsel on either side and the period of incarceration undergone by the petitioner, this Court is inclined to grant of bail to the petitioner with certain conditions.



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9. Accordingly, the petitioner is directed to make a non-refundable deposit of Rs.10,000/- (Rupees Ten Thousand only) **by way of Demand Draft/RTGS/NEFT to "The Dean, Government Medical College and Hospital, Thiruvannamalai"**, 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.II, Thiruvannamalai District** 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 petitioners 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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To

1. The Judicial Magistrate No.II, Thiruvannamalai District
2. Inspector of Police
Thiruvannamalai East Police Station
Thiruvannamalai
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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