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Crl.O.P.No.17436 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2023

CORAM

THE HON'BLE MR. JUSTICE **G.CHANDRASEKHARAN**

Crl.O.P.No.17436 of 2023

Saikumar

...Petitioner

Vs.

The State Represented by,
Inspector of Police,
Nagore Police Station,
Nagapattinam District.
(Crime No.249 / 2023)

...Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. to enlarge the petitioner on bail in Crime No.249 of 2023 on the file of the respondent police.

For Petitioner : Mr.C.T.Saravanan

For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor



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ORDER

When the matter was taken up for hearing on 08.08.2023, this

Court passed the following order:-

“This Criminal Original Petition is filed to enlarge the petitioner on bail in connection with the Crime No.249 of 2023 pending investigation on the file of the respondent police.

2. The main ground on which, the petitioner canvassed this bail petition is that, petitioner is 100% visually challenged. In support of his submission, he also produced disability certificate issued by the District Differently Abled Welfare Officer.

3. However, it is claimed by the learned Additional Public Prosecutor that, on instructions from the respondent police that, disability certificate was issued to the petitioner, when he was 13 years old. His instruction is that, petitioner's has no eye sight only on his right eye and his left eye is normal.

4. In view of the contradiction expressed by the learned counsel for the parties, this Court directs the Superintendent of Police, District Jail, Nagapattinam to produce the petitioner before the District Government



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Headquarters Hospital for examination, as to whether, petitioner is visually disabled in both his eyes, if so, to what extent. The certificate of the concerned medical officer should reach this Court on or before 22.08.2023.

5. Post the matter 22.08.2023.”

2.After subjecting the petitioner for medical examination, medical report of the petitioner issued by Doctor M.Kumaran, Assistant Professor, Ophthalmology Department, Government Medical College Hospital, Nagapattinam, is produced. It is seen from this medical report, it reads as follows:-

Medical Report

Name : N.Saikumar

Gender : Male

Ophthalmological Examination

Both eyes Microphthalmos with Microcornea/Nystagmus

Visual Acuity: Both eyes only perception of light

Visual Impairment: 100% (as per Gazette of India)

Disability category: IVb (Blindness)

3.The allegations against this petitioner is that on 04.06.2023, at



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about 10.30 a.m. the defacto-complainant and the Police party when engaged in monitoring offenders related to Prohibition Act, found the petitioner near his house with plastic glass with liquor. On seeing Police, he tried to escape. However, the Police apprehended him and found 115 litres of Pondy arrack in lorry tube near the place where he was sitting. The liquor was seized and petitioner was arrested.

4.It is submitted by the learned Additional Public Prosecutor that petitioner has twelve previous cases pending against him.

5.Considered the rival submissions and perused the records.

6.It is not known how a person with total visual impairment can involve and engage himself in the sale of illicit liquor. Therefore, this case has to be necessarily investigated by superior Police officer. While directing the concerned Deputy Superintendent of Police to investigate the Cr.No.249 of 2023, this Court is inclined to grant bail to the petitioner having with regard to his visual impairment, the fact that the



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liquor had been seized, petitioner is in judicial custody from 04.06.2023 and substantial part of the investigation might have been completed by this time. Thus, this Court is inclined to grant bail to the petitioner.

7. Accordingly, petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.25,000/-** (Rupees Twenty Five thousand only) with **two sureties**, each for a like sum to the satisfaction of the **Judicial Magistrate – II, Nagapattinam** 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 daily 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.



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[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 absconds, a fresh FIR can be registered under Section 229A IPC.

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To

- 1.The Judicial Magistrate – II,
Nagapattinam
- 2.District Jail,
Nagapattinam
- 3.The Inspector of Police,
Nagore Police Station,
Nagapattinam District
- 4.The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN. J.

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