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Crl.O.P.No.28890 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2024

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

Crl.O.P.No.28890 of 2024

Ganesan

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Vellakoil Police Station,
Tiruppur District.
(Crime No.440 of 2024).

... Respondent

PRAYER: Criminal Original Petition filed under Section 483 of BNSS, pleaded to enlarge the petitioner on bail, in connection with the Crime No.440 of 2024, pending investigation on the file of the respondent Police.

For Petitioner : Mr.K.Nagarajan

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed by the petitioner, who was formally arrested and remanded to judicial custody on 05.11.2024 seeking bail in Crime No.440 of 2024 registered for the offence under Sections 4(1)(A) & 4(1)(C) of the Tamil Nadu Prohibition (Amendment) Act, 2024.



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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 illegally transporting 4 ½ of litres of illicit arrack in their car. Hence the case.

3. Learned counsel appearing for the petitioner submitted that the petitioner, aged about 60 years, is an innocent person and he has been falsely implicated in this case. He further submitted that the co-accused in this case have been granted bail by this Court in Crl.O.P.No.28492 of 2024 dated 14.11.2024. He also submitted that the petitioner is in custody from 05.11.2024 and he is ready to abide by any stringent conditions that may be imposed by this Court. Hence, he prayed for grant of bail to the petitioner.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police, while opposing for grant of bail to the petitioner, submitted that accused 1 and 2 were found to be in illegal possession of 4.5 litres of illicit arrack. He further submitted that the specific overt act against the petitioner is that he had sold the illicit arrack to the other accused. He also submitted that one previous case is pending against this petitioner.



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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.5,000/- as non-refundable deposit to any welfare scheme of the Government or any organization. Hence, he prayed for grant of bail to the petitioner.

6. Heard the learned counsel appearing for the petitioner, the learned Government Advocate (CrI.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.5,000/- as non refundable deposit to the credit of the "District Legal Services Authority, Tiruppur", without prejudice to his rights and contentions before the trial Court.

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.



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9. Taking into consideration the above facts and circumstances of the case, the submissions made by the learned counsel on either side and also considering the fact that the co-accused have been released on bail, 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.5,000/- (Rupees Five Thousand only)** to the credit of "**District Legal Services Authority, Tiruppur**", without prejudice to his rights and contentions before the trial Court and 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.15,000/- (Rupees Fifteen Thousand only)** with **two sureties**, each for a like sum to the satisfaction of the learned **Judicial Magistrate, Kangeyam, Tiruppur 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



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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 absconds, a fresh FIR can be registered under Section 269 of B.N.S.

19.11.2024

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To

1. The Judicial Magistrate,
Kangayam, Tiruppur District.
2. The Inspector of Police,
Vellakoil Police Station,
Tiruppur District.
3. The Superintendent,
Central Prison, Coimbatore.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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