

IN THE COURT OF THE PRINCIPAL SESSIONS JUDGE, NAMAKKAL

Present: Thiru.K.H.Elavazhagan, B.Sc., M.L.,
Principal Sessions Judge,
Namakkal.

Tuesday the 26th day of May 2020

CMP.No.576/2020

(Cr.No.100/2020, Valavanthinadu P.S., Judicial Magistrate No.II, Namakkal)

Sivaji Ganesan, (44), S/o.

... Petitioner/Accused

/VS/

State by Inspector of Police,
Valavanthinadu P.S.

... Respondent/Complainant

Petition filed u/s. 439 Cr.P.C. dated 22.05.2020 to release the accused on bail.

This petition is coming on this day through E-mail filed by counsel for the petitioners Thiru.L.Raju, Advocate and Thiru.K.Dhanasekaran, Public Prosecutor filed objection through E-mail for the respondent and upon hearing both sides through videoconferencing and upon perusing both side contentions, this court delivered the following:

ORDER

Heard both side through videoconferencing. Perused both side contentions.

The petitioner/accused Sivajiganesan is seeking bail for the offences alleged to have been committed by him u/s 4(1)(a), 4(1-A) of TNP Act in Cr. No. 100/2020 of Valavandhinadu PS.

The counsel for the petitioner/accused stated in his petition, filed on E.Mail, that in fact, the petitioner is innocent person and falsely implicated in this case for statistical purpose. The respondent police arrested the petitioner without any iota and any proper reasons. They are in judicial custody since 15.05.2020, for about 11 days. He prays to release him on bail.

The Public Prosecutor stated in his objection, filed on E.Mail, that this accused were in possession of 3 litres of ID arrack with poisonous substance. The 3 litres of arrack were recovered from this accused and sent for chemical examination. He has no previous case and investigation is still pending. Further he submits that if the accused are released on bail, he will continue the same offence repeatedly and hence, he strongly objected to release him on bail.

It is seen that the petition is filed through E.mail and hence, the court fees should be paid before this court, after the lifting off National Wide Lock down.

It is seen that this petitioner is in judicial custody since 15.05.2020, i.e., for about 11 days. Considering this factor and also considering the Covid-19 virus spread over the world, I am of the view that granting bail to this petitioner would possibly reduce the number of prisoners in the prison, which would be the preventive measure from the spread of the above disease, at the time of Nation Wide Lock down, and hence, I am inclined to allow this petition.

In the result, the petitioner/accused is ordered to be released on bail on his executing own bond to the satisfaction of the Jail Superintendent concerned for a sum of Rs.10,000/- (Rupees ten thousand only), and after the period of two weeks from the date of releasing of the National Wide Lock down, the petitioner/accused shall produce two sureties, each for a like sum of Rs.10,000/- to the satisfaction of the Judicial Magistrate No.II, Namakkal u/s 88 of Cr.P.C,

(a) the petitioner after giving sureties before the Magistrate, shall report before the respondent/police daily at 10.00 a.m. for about 15 days,

(b) the petitioner shall not tamper with evidence or witness either during investigation or trial,

(c) the petitioner shall not abscond either during investigation or trial,

(d) 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].

(e) If the accused thereafter abscond, a fresh FIR can be registered under section 229-A IPC.

Accordingly, this petition is allowed.

Pronounced by me in open court this the 26th day of May 2020.

Sd/- K.H.Elavazhagan,
Principal Sessions Judge,
Namakkal.

To

The Judicial Magistrate No.II, Namakkal.
(and the Superintendent of jail concerned)

Copy to

1. The Inspector of Police, Valavanthinadu P.S.
2. The Public Prosecutor, District Court, Namakkal.