

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.05.2020

CORAM

THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

Crl. O.P. No.7809 of 2020

N.Vinay Reddy

... Petitioner

-Vs-

State Rep. by,
Inspector of Police,
Mathigiri Police Station,
Krishnagiri.
(Crime No.334 of 2020)

.... Respondent

PRAYER:- Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in connection with Crime No.334 of 2020 on the file of the respondent.

For Petitioner : Mr.I.Abrar Md. Abdullah

For Respondent : Mr. Karthikeyan Swaminathan,
Additional Public Prosecutor

O R D E R

The Petitioner, who is A1 in Crime No.334 of 2020 for the alleged offence under Sections 24(1) of Cigarette and Other Tobacco products Act, 2003 and 328 of IPC and Section 108(1)(b), 2 (b) of the TNPH Act, 1939, was arrested on 28.04.2020.

2. The case of the prosecution is that the respondent police mounted surveillance at Belagondapalli village and at that time, they received secret information that the prohibited HANS pockets were hoarded in Petitioner's Mango Garden, which is in the northern side of Belagondapalli Village. The respondent had raided the shed in the Garden, enquired the petitioner and found the contraband. The petitioner along with his friend one Dinesh Babu were found there. At that time the accused confessed that HANS packets, which were not prohibited in Bangalore, were smuggled by one Mathavan-A1/absconding accused, who used to buy it from Bangalore and sell it in Tamil Nadu. The respondent seized 8,40,000 packets of HANS and arrested the petitioner and his friend Dinesh Babu/A2. They had also confessed that they are selling the contraband along with Mathavan-A1 for quite some time

3. The contention of the Petitioner is that the petitioner is working as Assistant Professor in PES University at Bangalore and he was picked up from his residence in Bangalore. The petitioner was in self containment in Bangalore due to Covid-19 restrictions and he was not aware of any seizure taken place in Mango Garden, which belongs to him. The petitioner was not present at the time of seizure. The petitioner has been made a scape goat since the contraband were seized from his Mango Garden. The petitioner further submits that he is working as Assistant Professor in Bangalore and he has not indulged in any such activity. The petitioner was in self containment at the date of the arrest. Further, he would submit that the entire contraband has been seized and co-accused was granted bail by this Court in Crl.OP.No.7774 of 2020 on 22.05.2020 and hence, he seeks bail.

4. The learned Additional Public Prosecutor submitted that there are totally three accused in this case and they are friends. The petitioner (A3), Dinesh Babu (A2) and Mathavan (A1), jointly doing business. The contraband of 8.4 tonnes of Hans worth about Rs.43,00,000/- (Rupees Forty Three Lakhs only) which were seized from the farm house belonging to the petitioner. During the search and seizure, the Petitioner was present there and on enquiry, the Petitioner unable to give proper reason for the same. Further, it is found that the petitioner along with other accused were carrying on the said business for quite sometimes. Thereafter, the petitioner was arrested and hence, he objected for grant of bail to the petitioner.

5. Taking into consideration the fact that A2 was arrested and granted bail and the Petitioner is in incarceration from 28.04.2020 and the major part of the investigation with regard to the petitioner has been completed and the tobacco products has been seized, this Court is inclined to grant bail to the Petitioner, subject to the following conditions:-

(a) the Petitioner shall deposit a sum of Rs.2,00,000/- (Rupees Two Lakh only) to the Cancer Institute (WIA), (Regional Cancer Centre), Adyar, Chennai 600 020, (Bank: Andhra Bank, Branch: Madhya Kailash, SB A/C.No.149710011005477) and on such deposit, the Petitioner is ordered to be released on bail on executing his own bond for a sum of Rs.10,000/- (Rupees ten thousand only) before the Superintendent of the concerned prison, in which the Petitioner has been confined on his release;

(b) thereafter, the Petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, before the concerned Magistrate on or before 01.07.2020, failing which the bail granted by this Court shall stand dismissed automatically;

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(d)the Petitioner shall report before the Respondent Police as and when required for interrogation.

(e)the petitioner is employed in Bangalore, he should co-operate with the investigation and for trial as and when he is summoned, he should appear he should not be reason for any delay;

(f)the Petitioner shall not commit any offences of similar nature;

(g)the Petitioner shall not abscond either during investigation or trial;

(h)the Petitioner shall not tamper with evidence or witness either during investigation or trial;

(i)on breach of any of the aforesaid conditions, the learned Judicial 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];

(j)if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

7.With the above directions, this Criminal Original Petition is ordered.

-sd/-
26/05/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE NO.II,
HOSUR.

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, KRISHNAGIRI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE
MATHIGIRI POLICE STATION,
KRISHNAGIRI DISTRICT

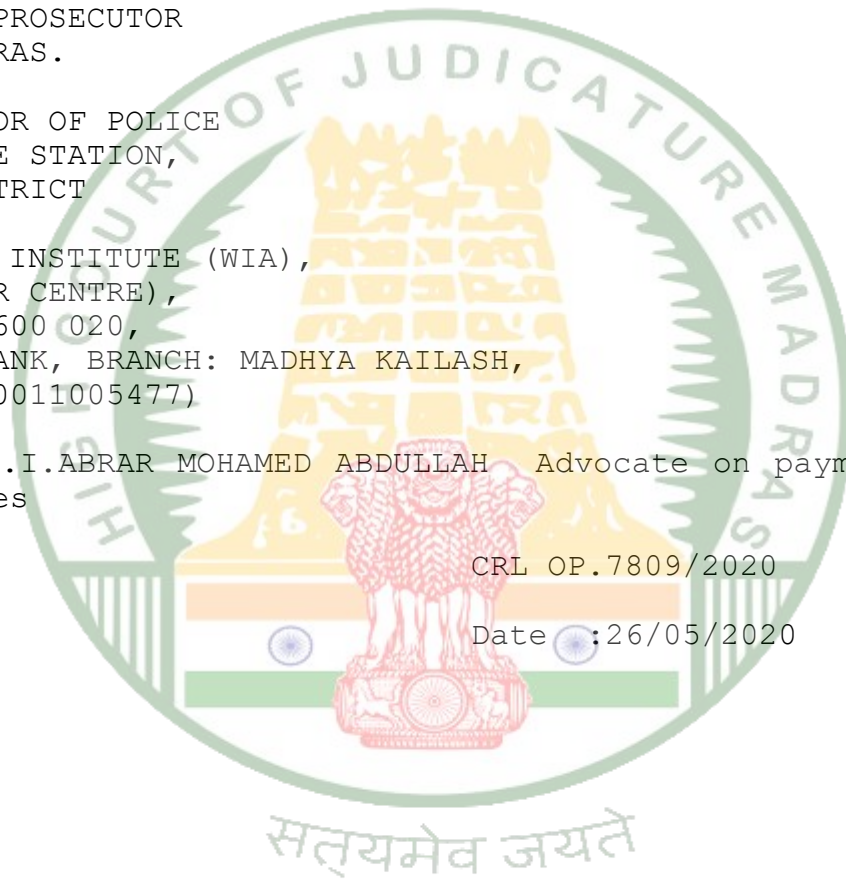
6 THE CANCER INSTITUTE (WIA),
(REGIONAL CANCER CENTRE),
ADYAR, CHENNAI 600 020,
(BANK: ANDHRA BANK, BRANCH: MADHYA KAILASH,
SB A/C.NO.149710011005477)

CC to M/S.I.ABRAR MOHAMED ABDULLAH Advocate on payment of
necessary charges

CRL OP.7809/2020

Date :26/05/2020

MK:19/08/2020



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