

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2020

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THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

Crl. O.P. No. 8649 of 2020

V.Kumaresan

... Petitioner

-Vs-

State rep. by
The Inspector of Police,
P6, Kodungaiyur Police Station,
Kodungaiyur, Chennai.

... Respondent

PRAYER:- Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the Petitioner on bail pertaining to Crime No. 712 of 2020 on the file of the Respondent Police.

For Petitioner : Mr.V.Kannadasan

For Respondent : Mr.S.Karthikeyan,
Additional Public Prosecutor

ORDER

The Petitioner, who was arrested and remanded to judicial custody on 16.05.2020 for the offence punishable under Section 24 (i) of Cigarette and other Tobacco Products Act, 2003 and under Section 328 of IPC, in Crime No. 712 of 2020 on the file of the Respondent Police, seeks bail.

2. The case of the prosecution is that on 16.05.2020, on the suspicion, when the respondent police enquired the petitioner and found in possession of pan masala items in a hand bag and further enquired a godown nearby place at Venkateswara

Nagar, Kodungaiyur was searched and seized the Hanz, MDM, Betal Nut, Cool lip box and 10 kgs of Mava totaling 524 Kgs at the godown and a sum of Rs.250/- from him. Hence the complaint was registered.

3. The learned Counsel appearing for the Petitioner submitted that the Petitioner is a groceries seller. During this Covid period he went to purchase garlic and onion at godown at that time the respondent police enquired him and he has been falsely implicated in this case by the respondent police. He further submitted that he has not committed any offence as alleged by the prosecution and there is no bad antecedent against him. Further he submitted that the Petitioner is in judicial custody from 16.05.2020 and hence, he seeks bail for the Petitioner.

4.The learned Additional Public Prosecutor submitted that the Petitioner was in possession of pan masala items in a hand bag and the respondent police seized Hanz, MDM, Betal Nut, Cool lip box and 10 kgs of Mava totaling 524 Kgs in godown. He further submitted that there are four previous cases as against the petitioner. He opposed for grant of bail to the Petitioner.

5.Taking into consideration the nature of allegations against the Petitioner in the FIR and also taking note of the fact that the Petitioner is in judicial custody from 16.05.2020, this Court is inclined to grant bail to the Petitioner, subject to the following conditions:-

(a) the Petitioner shall deposit a sum of Rs.30,000/- (Rupees thirty Thousand only) to the Cancer Institute (WIA), (Regional Cancer Centre), Adyar, Chennai – 600 020 (Bank: Andhra Bank, Madhya Kailash, SB A/C No.149710011005477), and on such deposit, the Petitioner is ordered to be released on bail on executing their 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) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate within a period of 15 days from the date of lifting of lockdown and commencement of regular functioning of Court below, 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 shall not commit any offences of similar nature;

(f) the Petitioner shall not abscond either during investigation or

trial;

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

(h) 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]; and

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

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Index: Yes/No

Internet: Yes/No

To

1. The Inspector of Police,
P6, Kodungaiyur Police Station,
Kodungaiyur, Chennai.

2. The X Metropolitan Magistrate,
Egmore, Chennai.

3. The Superintendent,
Central Prison -1,
Puzhal, Chennai.

4. The Public Prosecutor,
Madras High Court,
Chennai – 600 104.

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