

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.07.2020

CORAM :

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

Crl.O.P.No.11125 of 2020

1.Sakthivel
2.Rajendiran

... Petitioners

Vs.

State rep. by its
The Inspector of Police,
Annadhanapatty Police Station,
Salem City.
(Cr.No.1190 of 2020)

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in connection with the case in Crime No.1190 of 2020 pending investigation on the file of the respondent police.

For Petitioners: M/s.Karan and Uday

For Respondent : Mr.Shunmugarajeswaran
Government Advocate (Crl. Side)

ORDER

(The case has been heard through video conference)

The petitioners who were arrested and remanded to judicial custody on 10.06.2020 for the alleged offences punishable under sections 77 of the Juvenile Justice (Care and Protection of Children) Act, 2015, and Section 6 & 24(1) of Cigarette and other Tobacco Products Acts 2003, in Crime No. 1190 of 2020 on the file of the respondent police, seek bail.

2. The case of the prosecution is that the petitioners had illegally transported Rs.10 lakhs worth banned tobacco products along with other goods in the lorry. The same was seized by the respondent police.

3.The learned counsel appearing for the petitioners would submit that the first petitioner is owner and the second petitioner is the driver of the lorry and that they are falsely implicated in this case. He would submit that on the instruction of 3rd accused they have taken the product without their knowledge. On instruction, he would further submit that without prejudice to their defence,

first petitioner is prepared to deposit a sum of Rs.1,00,000/- and the second petitioner is prepared to deposit a sum of Rs.25,000/- to any charitable Organization or Association, and that the petitioners have been suffering incarceration from 10.06.2020. Hence, he prays to grant bail to the petitioners.

4.The learned Government Advocate (Crl. Side) would submit that the petitioners were illegally found in possession of Rs.10 lakhs worth banned tobacco products. Hence he opposed for the grant of bail to the petitioners.

5.Taking into consideration of the facts and circumstances and also considering the submissions made by the learned counsels and also the fact the petitioners are in custody from 10.06.2020, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) Accordingly, the petitioners are ordered to be released on bail on condition first petitioner is directed to deposit a sum of Rs.1 lakh and the second petitioner is directed to deposit a sum of Rs.25,000/- as **non refundable deposit to the Cancer Institute (WIA) (Regional Cancer Centre), Adyar, Chennai - 600 020, bearing A/C.No.149710011005477, Andhra Bank, Madhya Kailash Branch** and on such deposit and production of proof and also 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 petitioners have been confined on their release;

(b) the petitioners shall execute **two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each**, before the learned Judicial Magistrate-IV, Salem District, **within a period of two weeks after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier**, failing which the bail granted by this Court shall stand dismissed automatically;

(c) Merely, because the petitioners deposits the said amount, it would not amount to admission of their guilt. Therefore, it is open to the trial Court to deal with the case independently.

(d) 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;

(e) the petitioners shall report before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter every Monday at 10.30 a.m., until further orders.

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

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

(g) the petitioner shall not tamper with evidence or witness

(h) on breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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];

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

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

-sd/-
27/07/2020

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-IV,
SALEM DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ANNADHANAPATTY POLICE STATION,
SALEM CITY

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

6 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

CC to M/S.KARAN AND UDAY Advocate on payment of necessary charges

CRL OP.11125/2020

Date :27/07/2020

TA-09/10/2020

<https://hcservices.ecourts.gov.in/hcservices/>