

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No. 11496 of 2020

1.Rajaduari
2.Veeraiyan
3.Shiek Riyas Ahamed

... Petitioners/Accused Nos.2 to 4

Vs.

The State represented by,
The Inspector of Police,
Muthupettai Police Station,
Thiruvarur District.
(Crime No.2068 of 2020)

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioners on bail in Crime No. 2068 of 2020, on the file of the Inspector of Police, Muthupettai Police Station, Thiruvarur District.

For Petitioners : Mr.Swamisubramanian

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

O R D E R

(The case has been heard through video conference)

The petitioners who were arrested and remanded to judicial custody on 15.07.2020 for the offences punishable under Section 328 of IPC read with Section 7 and 20(1) of Cigarette and Other Tobacco Products Acts in Crime No. 2068 of 2020 on the file of the respondent police, seek bail.

2 The case of the prosecution is that the petitioners were found in illegal possession of banned Tobacco Products, worth about Rs.33,000/-. Hence the complaint.

3 The learned counsel appearing for the petitioners submitted that the petitioners have not committed any offence as alleged by the prosecution and that they have been falsely implicated in this case. He submitted that the petitioners are working as drivers and cleaner in an Agency. He further submitted that the petitioners are in judicial custody from 15.07.2020. Hence, he prays to grant bail to the petitioners.

4 The learned Government Advocate (Crl.Side) appearing for the respondent would submit that when the respondent police were intercepted the vehicle, they found that the petitioners were illegally transporting banned tobacco products, worth Rs.33,000/- along with biscuits. Hence, he opposed to grant bail to the petitioners.

5 At this juncture, the learned counsel for the petitioners would submit that without prejudice to his defence, the petitioners are prepared to deposit some considerable amount to any charitable Organization or Association, and that the petitioners have been suffering incarceration from 15.07.2020.

6 Taking into consideration the facts and submissions made by the learned counsel and also considering the period of incarceration suffered by the petitioners, 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 to make a non refundable deposit of Rs.10,000/- (Rupees Ten Thousand only) each, to the Cancer Institute (WIA), (Regional Cancer Centre), Adyar, Chennai - 600 020, bearing A/c.No.149710011005477, Andhra Bank, Madhya Kailash Branch on such deposit and production of proof and on condition to execute 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 and thereafter on their release;

(b) Each petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only), before the learned Judicial Magistrate, Thiruthuraipoondi, Thiruvarur 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 deposit 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 every day at 10.30 a.m. for a period of two weeks and thereafter on 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;

(h) the petitioners 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 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];

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

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

-sd/-
30/07/2020

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,
THIRUTHURAIPOONDI,
THIRUVARUR DISTRICT.

2 THE OFFICER INCHARGE
SUB-JAIL, THIRUTHURAIPOONDI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
MUTHUPETTAI POLICE STATION,
THIRUVARUR DISTRICT.

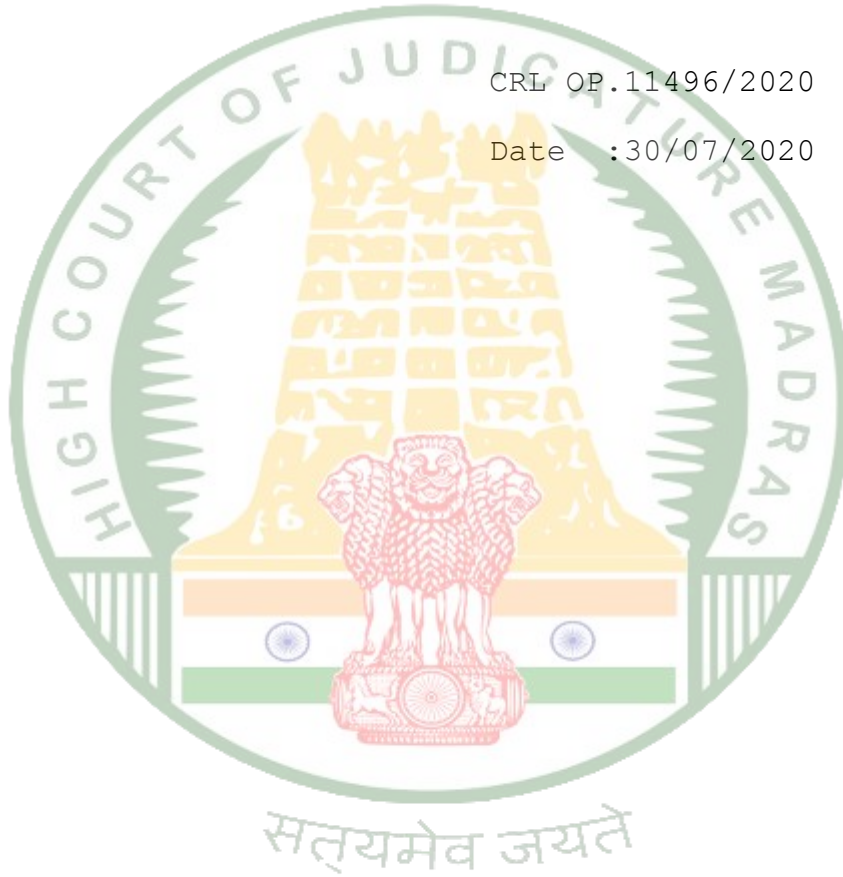
5 THE CANCER INSTITUTE (WIA),
(REGIONAL CANCER CENTRE),
ADYAR, CHENNAI - 600 020,
BEARING A/C.NO.149710011005477,
ANDHRA BANK,
MADHYA KAILASH BRANCH

CC to M/S.SWAMISUBRAMANIAN Advocate on payment of necessary
charges

CRL OP.11496/2020

Date :30/07/2020

cs 28/08/2020



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