

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.08.2020

CORAM :

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

Crl.O.P.Nos.11355 & 11497 of 2020

Vairavan S/o. Subramaniyan  
Crl.O.P.11355/2020

... Petitioner in

Balasubramaniyan S/o.Marimuthu  
Crl.O.P.11497/2020

... Petitioner in

Vs.

The State Rep. By  
Inspector of Police  
Thalayamangalam Police Station  
Thiruvarur District  
(Crime No.383 of 2020)

... Respondent in both  
Crl.O.Ps.

COMMON PRAYER: Criminal Original Petitions are filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.383 of 2020 pending on the file of the Inspector of Police, Thalayamangalam police station, Thiruvarur District.

For Petitioners : Mr.Swami Subramanian in both Crl.O.Ps

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

C O M M O N O R D E R

(These cases have been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 14.07.2020 for the offences punishable under Section 273, 328, IPC and in Section 7, 20(1), 52 and 59 of Food Safety and Standards Act, 2006, in Crime No.383 of 2020, seek bail.

2. The case of the prosecution is that the petitioners were found illegally transporting 958 Kgs. of banned tobacco products in three vehicles. The petitioners were arrested on 14.07.2020.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. He would further submit that A1 is the main accused and the contraband seized by the respondent police belongs to him. The petitioners are only working under him. On instruction, he would further submit that without prejudice to his defence and

contentions, the petitioners are prepared to deposit some considerable amount to any charitable organization or to any Association, and that the petitioners have been suffering incarceration from 14.07.2020. Hence, he prays to grant bail to the petitioners.

4.The learned Government Advocate (Crl. Side) would submit that the petitioners were found illegally transporting 958 Kgs. of banned tobacco products in three vehicles, to the tune of Rs.10 lakhs. He would further submit that there are no previous cases pending against the petitioners.

5.Taking into consideration of the facts and circumstances and also considering the submissions made by the learned counsels, and also considering the period of incarceration, 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 for a sum of Rs.75,000/- (Rupees Seventy Five 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 and on such deposit and production of proof and executing their own bond for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the Superintendent of the concerned prison, in which the petitioners have been confined and thereafter on their release;

(b) Thereafter, the petitioners shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the learned Judicial Magistrate No.II, Mannargudi, 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) 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) 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.

(e) the petitioners shall report before the respondent police daily 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

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 absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

03/08/2020

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, MANNARGUDI

2 THE OFFICER INCHARGE  
SUB-JAIL, THIRUTHURAIPOONDI

3 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,  
THALAYAMANGALAM POLICE STATION,  
THIRUVARUR DISTRICT,

5 THE CANCER INSTITUTE [WIA]  
REGIONAL CANCER CENTRE, ADYAR,  
CHENNAI-600 020.  
ANDHA BANK, MADHYA KAILASH BRANCH  
bearing A/c. No.149710011005477,

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

CRL OP.11355 & 11497/2020

Date :03/08/2020

RD 01/09/2020