

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.08.2020

CORAM :

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

Crl.O.P.No.12396 of 2020

N.Suresh

... Petitioner

Vs.

The State Rep. by
The Inspector of Police
J-13 Tharamani Police Station
Chennai-113
(Crime No.545 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.545 of 2020 on the file of the Respondent police.

For Petitioner : Mr.N.Senthil Kumar

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

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 24.07.2020 for the offence punishable under Sections 328 IPC and 20(2) of Cigarette and other Tobacco Products Act 2003 in Crime No.545 of 2020, seeks bail.

2. The case of the prosecution is that the petitioner was found in possession of banned tobacco products worth Rs.3,70,020/-. Hence, the complaint.

3. The learned counsel appearing for the petitioner submitted that the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. He further submitted that the petitioner is in judicial custody from 24.07.2020 and there is no previous case against him. Hence, he seeks for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) would vehemently oppose to enlarge the petitioner on bail on the ground that the petitioner was illegally found in possession banned tobacco products worth Rs.3,70,020/-. He would submit that there is no previous case against him.

5.At this juncture, the learned counsel for the petitioner would submit that without prejudice to his defence, the petitioner is prepared to pay/donate some considerable amount to any charitable Organization or Association, and that the petitioner has been suffering incarceration from 24.07.2020.

6.Taking into consideration of the facts and circumstances and the voluntary submissions made by the learned counsel and also considering the period of incarceration suffered by the petitioner, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on condition to **pay/donate of Rs.25,000/- (Rupees Twenty Five Thousand only) to the Satkaarya Trust, No.10/46, Periyar Street, Thenpalani Nagar, Kolathur, Chennai, ICICI Bank Kilpauk Branch, A/c.No.027801002323, IFSC: ICIC0000278,** and on such deposit and production of proof, the petitioner shall be released on bail and on condition to execute 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 and thereafter on his release;

(b) the petitioner shall execute **two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each,** before the learned XVIII Metropolitan Magistrate, Saidapet, Chennai, **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 petitioner deposits the said amount, it would not amount to admission of his 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 petitioner 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 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.

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

-sd/-
17/08/2020

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 METROPOLITAN MAGISTRATE NO.XVIII,
SAIDAPET, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
J-13 THARAMANI POLICE STATION,
CHENNAI-113

CC to M/S N.SENTHIL KUMAR Advocate on payment of necessary charges

CRL OP.12396/2020

Date :17/08/2020