

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No. 12749 of 2020

Kadar Mohideen

... Petitioner/Accused

Vs.

The State represented by, ... Respondent/Complainant

The Inspector of Police,

R-4, Soundrapandian Angadi Police Station,

Chennai.

Crime No. 612 of 2020.

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in the case pending investigation in Crime No. 612 of 2020, on the file of the respondent police.

For Petitioner : Mr.R.Thamarai Selvan

For Respondent : Mr.T.Shunmugarajeswaran

Government Advocate (Cr1. Side)

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 24.07.2020 for the offences punishable under Sections 328 of IPC and Section 6(a) of Cigarette and Other Tobacco Products Act 2003 in Crime No. 612 of 2020 on the file of the respondent police, seeks bail.

2 The case of the prosecution is that the petitioner was found in illegal possession of 75 kgs of banned tobacco products. Hence, the complaint.

3 The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. On instruction, he would further submit that taking into consideration the Covid pandemic situation the petitioner without prejudice to his defence, is prepared to make considerable donation to any charitable Organization or Association,

and that the petitioner has been suffering incarceration from 24.07.2020. Hence, he prays to grant bail to the petitioner.

4 The learned Government Advocate (Crl. Side) would submit that the petitioner was running a beeda shop and found in illegal possession of 22.5 kgs of banned tobacco products, which worth about Rs.30,000/-. He would further submit that there is no previous case pending against the petitioner. Hence, he opposed to grant bail to the petitioner.

5 In order to curb the illegal activities and taking into consideration the voluntary submission made by the petitioner offering to donate/pay considerable amount to any charitable organization or association this Court is of the opinion that the petitioner shall be directed to make a payment/donation of a sum of Rs.10,000/- (Rupees Ten Thousand only) to Missionaries of Charity (Mentally retarded children), Nirmala Shisu Bhavan, No.26/79, West Madha Church Road, Royapuram, Chennai - 600 013, South Indian Bank Limited, George Town Branch, A/c.No.0042053000009382, IFSC Code No. SIBL00000042 and on such payment and production of proof he shall be released on bail on executing a 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 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.

(c) thereafter on his release within a period of two weeks after lifting of lockdown or commencement of the Court's normal functioning whichever is earlier, shall surrender before the XVII Metropolitan Magistrate, Saidapet and furnish two sureties for a sum of Rs.10,000/-each failing which the bail granted by this Court shall stand dismissed automatically.

(d) 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.

(e) 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;

(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/-

20/08/2020

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 XVII METROPOLITAN MAGISTRATE,
SAIDAPET.

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

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
R-4 SOUNDRAPANDIAN ANGADI POLICE STATION,
CHENNAI.

5 THE SUPERINTENDENT,
CENTRAL PRISON PUZHAL.

6 THE MISSIONARIES OF CHARITY (MENTALLY RETARDED
CHILDREN), NIRMALA SHISU BHAVAN, NO.26/79,
WEST MADHA CHURCH ROAD, ROYAPURAM, CHENNAI -
600 013. SOUTH INDIAN BANK LIMITED, GEORGE TOWN BRANCH,
A/C.NO.0042053000009382, IFSC CODE NO. SIBL00000042

CC to M/S.R.THAMARAI SELVAN Advocate on payment of necessary charges

CRL OP.12749/2020

Date :20/08/2020

TA-16/09/2020