

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.08.2020

CORAM :

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

Crl.O.P.No.12949 of 2020

J.Pramoth kumar
S/o. Jai karan thandhi

... Petitioner

Vs.

The State Represented by
Inspector of Police,
R-9, Valasaravakkam Police Station,
Chennai.
Crime No.542/2020

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.542 of 2020 pending on the file of the respondent police.

For Petitioner : Mr.B.Mohanraj

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 29.07.2020 for the offences punishable under Section 328 IPC r/w 6(a) of COTPA Act 2003, in Crime No.542 of 2020, seeks bail.

2. The case of the prosecution is that the respondent police had found that the accused is selling Tobacco products and arrested the accused who is in possession of 25KG of 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 29.07.2020. Hence, he prays to grant bail to the petitioner.

4. The learned Government Advocate (Crl. Side) would submit that the petitioner was in possession of 44 pockets of tobacco products and as per confession two Grinder, 271 pocket mava, 1/2kg Jaradha 47 pocket, 7 Kg M cover. He would further submit that the petitioner

has three previous cases pending against him and two cases are under Section 2(1) of COTPA Act. Hence he vehemently opposes to grant bail to the petitioner.

5. Normally, this Court does not grant bail when there is previous case. It is seen that the petitioner has three previous cases pending against him and 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.30,000/- (Rupees Thirty Thousand only) to Claretian Life Animation Project Trust, A/c.No.1190155000096499, The Karur Vysya Bank Ltd, Tambaram Branch, Chennai, IFSC Code No. KVBL0001190, on such payment and production of proof he shall be released on bail on him 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 Judicial Magistrate No.1, Poonamallee 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/-

24/08/2020

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.I, POONAMALLEE

2 THE OFFICER INCHARGE
SUB-JAIL, PONNERI

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
R-9 VALASARAVAKKAM POLICE STATION,
CHENNAI.

5 THE CLARETIAN LIFE ANIMATION PROJECT TRUST,
A/C.NO.1190155000096499,
THE KARUR VYSYA BANK LTD,
TAMBARAM BRANCH, CHENNAI, IFSC CODE NO. KVBL0001190,

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

सत्यमेव जयते

CRL OP.12949/2020

Date :24/08/2020

RD 04/09/2020

WEB COPY