

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.08.2020

CORAM :

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

Crl.O.P.No.12558 of 2020

Poobathi

... Petitioner

- Vs. -

State represented by:

... Respondent

The Inspector of police,
Komarapalayam Police Station,
Namakkal District.
(Crime No.826 of 2020)

Prayer: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code, to enlarge the petitioner on bail in Crime No.826 of 2020 on the file of the respondent police.

For Petitioner : Mr.R.Marudhachalamurthy

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

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested on 02.07.2020 for the alleged offences punishable under Sections 328 of IPC and 7 & 20(i) of Cigarette and other Tobacco Products Act, 2003 in Crime No.826 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 4 bags of Hans, 24 bags of Vimal Pan parag and V-I Tobacco to mix with pan parag worth about Rs.10 lakhs.

3. The learned counsel 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 02.07.2020. Hence, he prays to grant bail to the petitioner.

4.The learned Government Advocate (Crl. Side) appearing for

the respondent would submit that the petitioner was found in possession of illegal Tobacco products worth about Rs.10 lakhs. Hence, he opposed to grant bail to the petitioner.

5. 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.50,000/- (Rupees Fifty Thousand only) to the Atchayam Trust, Komarapalayam, Namakkal District, Bank Name: Corporation Bank, Komarapalayam, Account No.510101002434791, IFSC Code: CORP0000876 (the amount shall be used for the purpose of providing medicines to the persons affected with Covid-19)** and on such payment and production of proof, he shall be released on bail on his 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;

(a) 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;

(b) 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, Komarapalayam and furnish two sureties for a sum of Rs.10,000/-each 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 not commit any offences of similar nature;

(f) the petitioner shall not abscond either during investigation or trial;

(g) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(h) 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];

(g) 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/-
19/08/2020

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,
KOMARAPALAYAM.

2 THE INSPECTOR OF POLICE,
KOMARAPALAYAM POLICE STATION,
NAMAKKAL DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE ATCHAYAM TRUST,
KOMARAPALAYAM, NAMAKKAL DISTRICT,
BANK NAME: CORPORATION BANK, KOMARAPALAYAM, ACCOUNT NO.510101002434791,
IFSC CODE: CORP0000876

+1 CC to M/S.R.MARUDHACHALAMURTHY Advocate on payment of necessary charges SR.NO. 5977

CRL OP.12558/2020

Date :19/08/2020

MN-21/08/2020