

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No. 12914 of 2020

Birlabose

... Petitioner/Accused

Vs.

The State represented by,
The Sub Inspector of Police,
Ennore Police Station,
Ennore, Chennai.

(Crime No. 3613 of 2020)

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No. 3613 of 2020, pending investigation on the file of the respondent police.

For Petitioner : Mr.R.Dhanasekar

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 offences punishable under Sections 353, 506(2) of IPC r/w 7, 20(1) of COITP Act, 2005, in Crime No.3613 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 682 kilo grams of Jartha and 500 Hans packages. 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 had illegally transported banned tobacco product viz., 682 kgs of Jardha and 500 hans packets, which worth about Rs.2,00,000/-, without any valid licence or permit. Hence, he vehemently opposes to grant bail to the petitioner. He would further submit that the petitioner has no previous cases.

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.25,000/- (Rupees Twenty Five Thousand only) to Cancer Institute (WIA) (Regional Cancer Centre), Adyar, Chennai - 600020, bearing A/c.No.149710011005477, Andhra Bank, Madhya Kailash Branch 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;

(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, Thiruvottriyur and furnish two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand Only) 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.

(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/-
28/08/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

सत्यमेव जयते
TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

WEB COPY

TO

1 THE JUDICIAL MAGISTRATE,
THIRUVOTTRIYUR.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

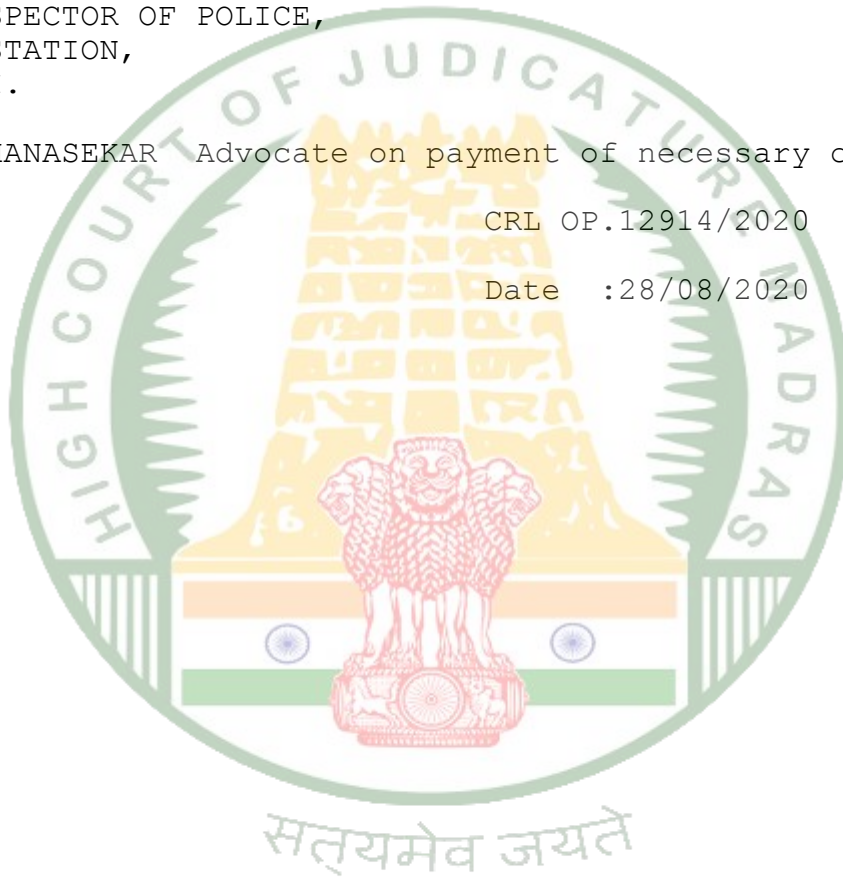
4 THE SUB INSPECTOR OF POLICE,
ENNORE POLICE STATION,
ENNORE, CHENNAI.

CC to R.DHANASEKAR Advocate on payment of necessary charges

CRL OP.12914/2020

Date :28/08/2020

MK:07/09/2020



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