

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.08.2020

CORAM :

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

Crl.O.P.No.13319 of 2020

1. Ashwak @ Md.Ashfaque
2. Sajjath

... Petitioners

Vs.

The State Represented by
Inspector of Police,
K-3, Aminjikarai Police Station,
Aminjikarai, Chennai - 600 029.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail concerned in Crime No. 983 of 2020 on the file of the respondent.

For Petitioners : Mr.K.M.Ramesh

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

O R D E R

(The case has been heard through video conference)

The petitioners, who was arrested and remanded to judicial custody on 07.08.2020 for the offence punishable under Section 328 IPC, in Crime No.983 of 2020, seeks bail.

2. The case of the prosecution is that the petitioners were purchasing tobacco items from A1 and A3 and the defacto complainant arrested the accused. Hence, the complaint.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have been been falsely implicated in this case. On instruction, he would further submit that taking into consideration the Covid pandemic situation, the petitioners without prejudice to his defence, is prepared to make considerable donation to any charitable Organization or Association, and that the petitioners have been suffering incarceration from 07.08.2020. Hence, he prays to grant bail to the petitioners.

4. The learned Government Advocate (Crl. Side) would submit that the petitioner was found in possession of 1.200 kg Mava, 12 Kg jartha, seeval 12 kg, hans 10grams 690 packets, 5gram thusai 100 packets, remo 5gram 1440 packets, MDM 3gram-1440 packets, tobacco 644 packets valuing Rs.1,50,000/-. Hence, he vehemently opposes to grant bail to the petitioners.

5. In order to curb the illegal activities and taking into consideration the voluntary submission made by the petitioners offering to donate/pay considerable amount to any charitable organization or association, this Court is of the opinion that the petitioners shall be directed to make **a payment/donation of a sum of Rs.20,000/- (Rupees Twenty Thousand only) each to "The Cancer Institute (WIA), (Regional Cancer Centre), Adyar, Chennai- 600 020 bearing A/c.No.149710011005477, Andhra Bank, Madhya Kailash Branch"** and on such payment and production of proof they shall be released on bail on executing a own bond for a sum of Rs.10,000/- (Rupees ten thousand only), each before the Superintendent of the concerned prison, in which the petitioners has been confined and thereafter on their release;

(a) the petitioners 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 their 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 **V Metropolitan Magistrate, Egmore, Chennai** 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 petitioners deposit the said amount, it would not amount to admission of their 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 petitioners shall not commit any offences of similar nature;

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

(g) the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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];

(i) 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/-
31/08/2020

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 V METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI.

2 THE JAILOR, SUB JAIL,
MADHURANTHAGAM, CHENGALPATTU.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE, K-3,
AMINJAKARAI POLICE STATION,
AMINJAKARAI, CHENNAI-600 029

5 THE CANCER INSTITUTE (WIA),
(REGIONAL CANCER CENTRE), ADYAR, CHENNAI-600 020
BEARING A/C.NO.149710011005477,
ANDHRA BANK, MADHYA KAILASH BRANCH

+1 CC to M/S.K.M.RAMESH Advocate on payment of necessary charges SR.NO. 6076

CRL OP.13319/2020

Date :31/08/2020