

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.13317 of 2020

K.Muthu

... Petitioner

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 petitioner on bail concerned in Crime No. 983 of 2020 on the file of the respondent.

For Petitioner : Mr.B.Srinivasan

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 07.08.2020 for the offence punishable under Sections 6 of COPTA 2003 & 328 IPC, in Crime No.983 of 2020, seeks bail.

2. The case of the prosecution is that the petitioner supplied tobacco related items to the other accused and they prepared mahua and other tobacco items and sold it to public, while selling the tobacco items, the defacto complainant arrested the accused. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person 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 07.08.2020. Hence, he prays to grant bail to the petitioner.

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/- and submitted that there is no previous case pending against him. However, he vehemently opposes 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.50,000/- (Rupees Fifty Thousand only) 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 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;

(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 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 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;

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

(g) 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];

(h) 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 V METROPOLITAN MAGISTRATE
EGMORE, CHENNAI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 INSPECTOR OF POLICE,
K-3, AMINJIKARAI POLICE STATION,
AMINJIKARAI, CHENNAI-600 029.

4 THE OFFICER INCHARGE,
SUB JAIL, MADHURANTHAGAM

5 THE CANCER INSTITUTE (WIA),
(REGIONAL CANCER CENTRE),
ADYAR, CHENNAI 600 020

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

CRL OP.13317/2020

Date :31/08/2020

RVR 10/09/2020