

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.09.2020

CORAM :

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

Crl.O.P.No.13635 of 2020

Muniyasamy

... Petitioner

Vs.

The State Represented by
The Inspector of Police,
E-5, Sholavaram Police Station,
Chennai - 600066,
Crime No.4646 of 2020. Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail concerned in Crime No.4646 of 2020 on the file of the respondent.

For Petitioner : Mr.R.Venkatesulu

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

ORDER

(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 294 (b), 353, 506(1) IPC, r/w Section 24(1) of COTPA 2003, in Crime No.4646 of 2020, seeks bail.

2. The case of the prosecution is that the petitioner was found in illegal possession of banned tobacco of 300 Kgs of Hans worth about Rs.1,50,000/-. 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 for almost one month. 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 300 Kgs of tobacco products 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.25,000/- (Rupees Twenty Five Thousand only)** to **"Indian Council for Child Welfare, Tamil Nadu, Indian Bank, Anna Nagar Branch, Current Account No.00426128621, IFSC Code No. IDIB000A025"** 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 learned Judicial Magistrate -2, Ponneri** 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/-
03/09/2020

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 -2,
PONNERI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
E-5, SHOLAVARAM POLICE STATION,
CHENNAI-600 066.

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

6 THE "INDIAN COUNCIL FOR CHILD WELFARE, TAMIL
NADU, INDIAN BANK, ANNA NAGAR BRANCH,
CURRENT ACCOUNT NO.00426128621, IFSC CODE NO.
IDIB000A025"

CC to M/S. R.VENKATESULU Advocate on payment of necessary charges

CRL OP.13635/2020

Date :03/09/2020

TA-09/09/2020