

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.09.2020

CORAM :

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

Crl.O.P.No.13779 of 2020

S.Parthasarathy

... Petitioner

Vs.

State by
Inspector of Police
M5-Ennore Police Station.
Crime No.3770 of 2020

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.3770 of 2020 on the file of the respondent police.

For Petitioner : Mr.R.Ramesh

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 06.08.2020 for the offence punishable under Sections 353, 506(1) IPC read with Section 7, 20(1) of COTPA Act, 2003, in Crime No.3770 of 2020, seeks bail.

2. The case of the prosecution as per the defacto complainant, the Inspector of Police is that on 05.08.2020 at 15:15 hours, while the Inspector was doing vehicle check up, he intercepted the auto bearing Regn.No.TN04 AD 6180 and a two wheeler bearing Regn.No.TN05 BK 8797 and the petitioner was found to be in possession of banned tobacco products. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case and he is only a Auto driver. He would submit that the petitioner had taken the trip with the goods entrusted by the other accused without knowing that they were banned tobacco products and while he was on his way, he was

intercepted and 8 bags containing banned tobacco products were recovered and that he has nothing to do with the alleged offence. Hence, he prays to grant bail to the petitioner.

4. The learned Government Advocate (Crl. Side) would vehemently oppose stating that the petitioner was transporting 8 bags of banned tobacco products and the auto was escorted by another motorcycle. Later from the godown, 1000 kgs of banned tobacco products worth Rs.10,00,000/- were seized and the petitioner was arrested on 06.08.2020 and the other persons were also arrested.

5. At this juncture, the learned Counsel for the petitioner would submit that the petitioner was only transporting the goods and he is neither the owner of the goods nor the owner of the other articles recovered by the respondent police. However, on instruction, he would 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 06.08.2020.

6. 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)**, through RTGS/NEFT in favour of the **Cancer Institute (WIA) (Regional Cancer Centre), Adyar, Chennai - 600020, bearing A/c.No.149710011005477, Andhra Bank, Madhya Kailash Branch, Chennai**, and on such payment and production of proof she shall be released on bail on her executing 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 her release;

(a) the petitioner shall report before the respondent police every day at 10.30 a.m. until further orders.

(b) thereafter on his release, within a period of two weeks from the date of commencement of the Court's normal functioning, shall surrender before the learned Judicial Magistrate, Thiruvottiyur, 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 her 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];

(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/-

11/09/2020

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,
THIRUVOTTIYUR

2 THE CHIEF JUDICIAL MAGISTRATE
EGMORE, CHENNAI [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
M-5, ENNORE POLICE STATION.

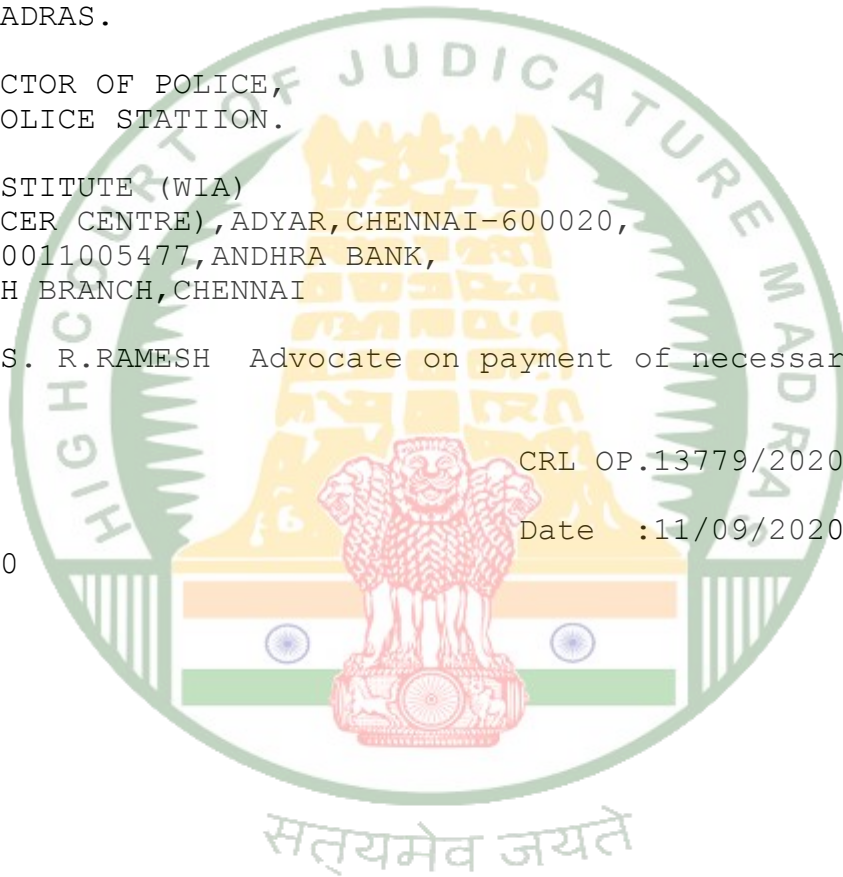
6 CANCER INSTITUTE (WIA)
(REGIONAL CANCER CENTRE), ADYAR, CHENNAI-600020,
A/C.NO.149710011005477, ANDHRA BANK,
MADHYA KAILASH BRANCH, CHENNAI

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

CRL OP.13779/2020

Date :11/09/2020

GKS:16/09/2020



WEB COPY