

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.09.2020

CORAM :

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

Crl.O.P.No.13952 of 2020

1. Nagarajan
2. Noorul Hug @ Noormohamed ... Petitioners

Vs.

The State Represented by
Inspector of Police
R-8, Vadapalani Police Station,
Chennai.
(Crime No.423 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.423 of 2020 on the file of the Inspector of Police, R-8, Vadapalani Police Station, Chennai.

For Petitioner : Mr.M.Vinoth

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 were arrested and remanded to judicial custody on 21.08.2020 for the offence punishable under Section 6(a) and 24(1) of Cigarette and other Tobacco Products Act read with Section 328 of IPC in Crime No.423 of 2020, seeks bail.

2. The case of the prosecution is that the petitioners and other accused were found in possession of 13½ kg of RMD betel-nuts, 35½ kg of Vimal V1 betel-nuts, 28½ kg of Cool Lip tobacco, 20 kg of swagath, 22 kg of Chini Khani, 10½ kg of tobacco mixed with betel-nut and 7 kg. of Rokada panmasala. Hence, the complaint.

3. The learned counsel appearing for the petitioners would submit that the petitioners are arrayed as A1 and A2 and they are only employees in the shop run by A3. He would submit that A3 who is the owner of the shop and contraband has not been arrested. However, on instruction, he would further submit that taking into consideration the Covid pandemic situation, the petitioner without prejudice to their defence, are prepared to make considerable donation to any charitable Organization or Association, and that the petitioners have been suffering incarceration from 21.08.2020. Hence, he prays to grant bail to the petitioners.

4. The learned Government Advocate (Crl. Side) would submit that the petitioners and other accused were found in possession of 13½ kg of RMD betel-nuts, 35½ kg of Vimal V1 betel-nuts, 28½ kg of Cool Lip tobacco, 20 kg of swagath, 22 kg of Chini Khani, 10½ kg of tobacco mixed with betel-nut and 7 kg. of Rokada panmasala. Hence he vehemently opposed 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.35,000/- (Rupees Thirty Five Thousand only) each, 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 they shall be released on bail on their executing 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 have 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 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 learned XVII Metropolitan Magistrate, Saidapet, 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/-

08/09/2020

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.

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1 XVII METROPOLITAN MAGISTRATE,
SAIDAPET, CHENNAI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 INSPECTOR OF POLICE,
R-8, VADAPALANI POLICE STATION,
CHENNAI.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI, CHENNAI

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

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

CRL OP.13952/2020

Date :08/09/2020

RVR 11/09/2020