

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.09.2020

CORAM :

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

Crl.O.P.No.14244 of 2020

1.Balakumaran
2.Mageshwaran

... Petitioners

Vs.

STATE rep. by : INSPECTOR OF POLICE
E-5, Sholavaram Police Station
Sholavaram ,Tiruvallur 600 062
(Crime No.4629 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.4629 of 2020 on the file of the Respondent Police.

For Petitioners : Mr.S.Michael

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 05.08.2020 for the offences punishable under Section 294(b), 353, 506(i) IPC r/w. 24(1) COTPA Act, 2003, in Crime No.4629 of 2020, seeks bail.

2. The case of the prosecution is that the petitioners were found in possession of prohibited tobacco products namely "Hans" weighing about 678 Kg worth Rs.3,00,000/-.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. He would further submit that the petitioners are in judicial custody from 05.08.2020.

4. The learned Government Advocate(Crl. Side)would submit that the petitioners were found in possession of 678 Kgs.of prohibited Tobacco products,worth to the tune of Rs.3,00,000/-..He would further submit that as far as the 1st petitioner is concerned he has got one previous case of similar nature and as far as the 2nd petitioner is concerned,he has got no previous cases.

5. At this juncture, learned counsel for the petitioners, on instruction submitted that taking into consideration of the Covid pandemic situation, the petitioners without prejudice to his defence, are prepared to make considerable donation to any charitable Organization or Association, and that the petitioners have been suffering incarceration from 05.08.2020. Hence, he prays to grant bail to the petitioners.

6. Taking into consideration of the voluntary submission made by the petitioners that they are ready to offer / to donate / pay considerable amount to any charitable organization or association this Court is of the opinion that the 1st petitioner shall be directed to deposit a sum of Rs.40,000/- (Rupees Forty Thousand only) and the 2nd petitioner is directed to deposit a sum of Rs.20,000/- (Rupees Twenty Thousand only) as non-refundable deposits 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, and** on such payment and production of proof they shall be released on bail on condition to execute own bonds 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;

(b) the petitioners shall **within a period of two weeks from the date of the commencement of the Court's normal functioning, execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each,** before the Judicial Magistrate No.II, Ponneri, 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 petitioners shall report before the respondent police every day at 10.30 a.m. until further orders.

(e) 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;

(f) the petitioners shall not commit any offences of similar nature;

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

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

(i) 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];

(j) 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/-

14/09/2020

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 NO.II, PONNERI

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVALLUR [FOR INFORMATION]

3 THE SUPERINTENDENT, CENTRAL PRISON, PUZHAL

4 THE PUBLIC PROSECUTOR, HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
E-5, SHOLAVARAM POLICE STATION, SHOLAVARAM,
TIRUVALLUR - 600 062.

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

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

CRL OP.14244/2020

Date :14/09/2020

GKS:17/09/2020