

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.10.2020

CORAM :

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

CRL.O.P.No.14899 of 2020

Senthilkumar

... Petitioner

Vs.

The State rep by

The Sub Inspector of Police,

Neyveli Thermal P.S.

Cr.No.608/2020

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.608 of 2020 on the file of the respondent police.

For Petitioner : Mr.G.Vijayakumar

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 08.09.2020 for the offences punishable under Sections 273, 328 of IPC and Section 24(1) of Cigarette and Other Tobacco Product Acts, in Crime No.608 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that when the defacto complainant attached to the respondent police on secret information conducted a search, they found that the petitioner along with other accused was illegally in possession of Hans (2 bags), Vimal pan masala (4 bags), Chaini tobacco filter(1 bag), M.Gold Scented Tobacco (1 box) and RMD Pan Masala (1 Box) worth to the tune of Rs.77,520/-. Hence, this complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. On instructions, he would further submit that taking into consideration of 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 08.09.2020.

4.The learned Government Advocate (Crl. Side) would vehemently oppose stating that the petitioner along with other accused was illegally found in possession of banned tobacco products and the respondent police have seized the following contraband Hans (2 bags), Vimal pan masala (4 bags), Chaini tobacco filter(1 bag), M.Gold Scented Tobacco (1 box) and RMD Pan Masala (1 Box) worth Rs.77,520/- from him. He would further submit that the petitioner has one previous case of similar nature.

5.In order to curb the illegal activities and taking into consideration of 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 deposit a sum of Rs.5,000/- (Rupees Five Thousand only) as non-refundable deposit 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, on such payment and production of proof, he shall be released on bail on further condition to execute a bond for a sum of Rs.10,000/- (Ten Thousand only) with two sureties each for a likesum sum to the satisfaction of the the learned Judicial Magistrate, Neyveli, and on further conditions that;

(b) 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.

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

(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/-

09/10/2020

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,
NEYVELI

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUB INSPECTOR OF POLICE,
NEYVELI THERMAL POLICE STATION,
NEYVELI

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

6 THE OFFICER INCHARGE,
SUB JAIL, CHIDAMBARAM.

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

CRL OP.14899/2020

Date :09/10/2020

RVR 12/10/2020