

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.09.2020

CORAM :

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

CRL.O.P.No.15044 of 2020

1.V.Kanagaraj
2.Rajavel

... Petitioners

Vs.

The State rep. by Inspector of Police
Neyveli Thermal Police Station
Cuddalore District
(Crime No.608 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.608 of 2020 on the file of the respondent police.

For Petitioners : Mr.K.M.Subheramaniam

For Respondent : Ms.S.Thankira
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 08.09.2020 for the offences punishable under **Section 273, 328 IPC and Section 24(1) of Cigarette and Other Tobacco Products (COTP) Act 2003, in Crime No.608 of 2020**, on the file of the respondent police, seek bail.

2. The case of the prosecution as per the defacto complainant one Kumar, the Sub Inspector of Police attached to the respondent police is that he received an information that the 1st accused is having grocery shop and he is selling the prohibited tobacco products in his shop. On 08.09.2020, when the defacto complainant had gone to the grocery shop of the 1st accused to conduct a search, he found that the petitioners were loading the banned tobacco products in their Maruti Suzuki car bearing Reg.No.TN-76-W-4075 worth Rs.33,600/- and the same was seized from the car and thereafter they also conducted search in the grocery shop of the 1st accused and found the other items of the banned tobacco products to the tune of Rs.1,11,120/- and the same was also seized by the respondent police.

3. The learned counsel appearing for the petitioners would submit that the petitioners are only the employees of the person having a shop in Ulundurpet and on the instructions of the owner of the shop, they have come to take the goods from the 1st accused and other than that they have nothing to do with the alleged offence. He would further submit that the contraband has been recovered only from the shop of the 1st accused.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would vehemently oppose stating that the petitioners were found to be loading the banned tobacco products worth Rs.33,600/- and they were arrested on that spot and the contraband was also seized. She would further submit that there are no previous cases pending against these petitioners.

5. At this juncture, learned counsel for the petitioners submitted that without prejudice to his defence, the petitioners are prepared to deposit some considerable amount to any charitable Organization or Association. The petitioners are in judicial custody from 08.09.2020.

6. Taking into consideration of the facts and circumstances and considering the submissions of the learned counsels and also considering the period of incarceration suffered by the petitioners, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) The petitioners are directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand Only) each as non-refundable deposit through RTGS/NEFT to the **Cancer Institute (WIA) (Regional Cancer Centre), Adyar, Chennai -600020, bearing A/c.No.149710011005477, Andhra Bank, Madhya Kailash Branch,** within fifteen (15) days from the date of receipt of a copy of this order and on such deposit and production of proof and also on condition to execute their 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;

(b) Thereafter, the petitioners shall execute a bond for a sum of **Rs.10,000/- (Rupees Ten Thousand Only)** with two sureties each for a like sum to the satisfaction of the **District Munsif cum Judicial Magistrate Court, Neyveli, within a period of two weeks from the date of commencement of the Court's normal functioning,** 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 on their release from prison, shall report before the respondent police everyday at 10.30 a.m. until further orders.

(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/-
24/09/2020

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 DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE COURT, NEYVELI

2 THE JAILER, SUB JAIL,
CHIDAMBARAM

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
NEYVELI THERMAL POLICE STATION,
CUDDALORE DIST.

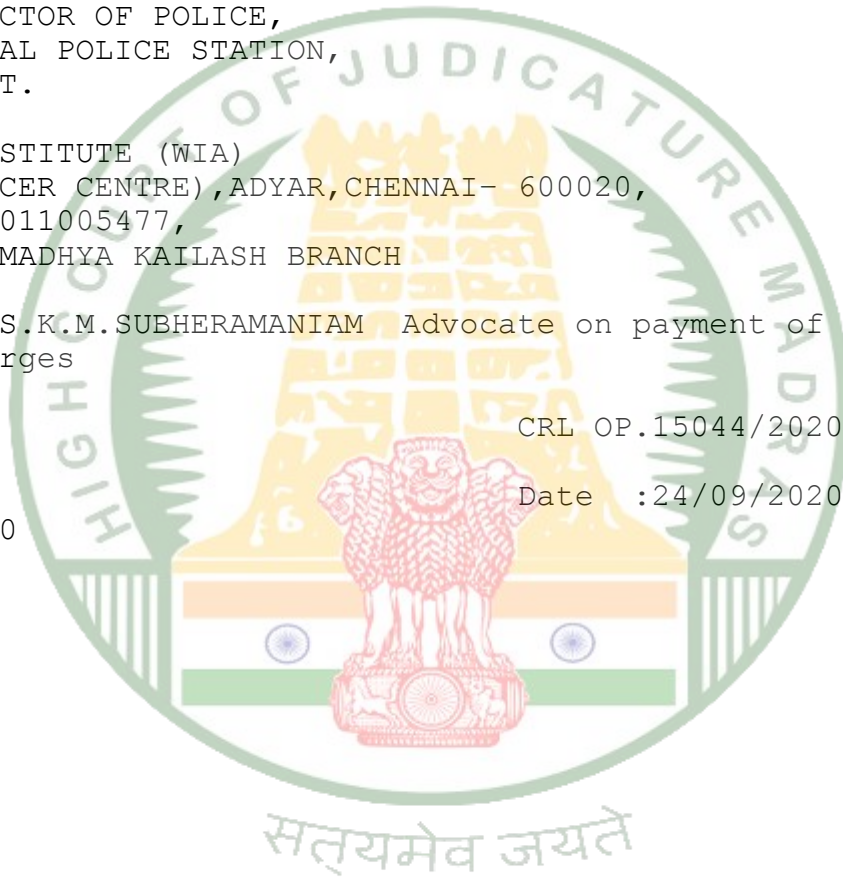
5 CANCER INSTITUTE (WIA)
(REGIONAL CANCER CENTRE), ADYAR, CHENNAI- 600020,
A/C.NO.149710011005477,
ANDHRA BANK, MADHYA KAILASH BRANCH

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

CRL OP.15044/2020

Date :24/09/2020

GKS:28/09/2020



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