

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.10.2020

CORAM :

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

CRL.O.P.No.15642 of 2020

Mohan Kumar

... Petitioner

Vs.

The State of Tamilnadu rep. By
The Inspector of Police
Shevapet Police Station
Chennai.
(Crime No.1026 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.1026 of 2020 on the file of the respondent police.

For Petitioner : Mr.S.N.Subramani

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 09.09.2020 for the offences punishable under **Section 77, the Juvenile Justice (Care and Production of Children) Act, 2015 r/w. 6, 24 (1) of Cigarette and other Tobacco Products Act, 2003, in Crime No.1026 of 2020**, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner along with the child in conflict with law was found in possession of banned tobacco products and during the course of investigation, the defacto complainant and his team secured the petitioner and seized 33 packets (containing 12 pouch) of Cool Lips Filter Tobacco, 37 packets (containing 30 pouch) of Vimal Pan Masal, 16 packets (containing 30 pouch) of V-1 Tobacco and 146 packets (containing 30 Pouch) of Hans Chaap Tobacco from them. 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 based on the confession statement given by the other accused. On instruction, 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 09.09.2020.

4.The learned Government Advocate (Crl. Side) would vehemently oppose stating that the petitioner along with the child in conflict with law was found in possession of banned tobacco products and during the course of investigation, the defacto complainant and his police team secured the petitioner and seized 33 packets (containing 12 pouch) of Cool Lips Filter Tobacco, 37 packets (containing 30 pouch) of Vimal Pan Masal, 16 packets (containing 30 pouch) of V-1 Tobacco and 146 packets (containing 30 Pouch) of Hans Chaap Tobacco from them. He would further submit that there is no other cases pending against this petitioner.

5.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 deposit a sum of Rs.15,000/- (Rupees Fifteen 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 No.III, Salem, 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/-

05/10/2020

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
SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
SHEVAPET POLICE STATION,
CHENNAI.

5 THE SUPERINTENDENT
CENTRAL PRISON, SALEM

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

+1 CC to M/S.S.N.SUBRAMANI Advocate on payment of necessary
charges SR.NO.6618

CRL OP.15642/2020

Date :05/10/2020