

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.10.2020

CORAM :

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

CRL.O.P.Nos.15663, 15664 & 15745 of 2020

1.PRASANTH ... Petitioners in Crl.O.P.15663/2020
2.DEVANATHAN

RAMKUMAR ... Petitioner in Crl.O.P.15664/2020

R.SARAVANAN ... Petitioner in Crl.O.P.15745/2020

Vs.

State Rep by. ... Respondent in all Crl.OPs.
The Station House Officer,
Thirupapuliur Police Station,
Cuddalore District.
(Crime No.1314/2020)

COMMON PRAYER: Criminal Original Petitions are filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.1314 of 2020 on the file of the respondent police.

For Petitioners : Mr.K.Gandhikumar
in All Crl.O.Ps.

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

COMMON ORDER

(The cases have been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 08.09.2020 and 15.08.2020 for the offences punishable under **Sections 273, 328 of IPC r/w Under Section 24(1) of The Cigarette and other Tobacco Products Acts 2003, in Crime No.1314 of 2020** on the file of the respondent police, seek bail.

2.The case of the prosecution as per the defacto complainant viz. Kathiravan, the Sub Inspector of Police attached to the respondent police is that when they were on routine patrol duty, they found that the petitioners along with A1, who is the owner of the Mahalakshmi Stores have indulged in the business of dealing with the banned tobacco products worth Rs.1,20,00,000/- and the same was seized by the respondent police. The petitioners in

Crl.O.P.No.15663 of 2020 were arrested on 08.09.2020, the petitioner in Crl.O.P.No.15664 of 2020 was arrested on 15.08.2020 and the petitioner in Crl.O.P.No.15745 of 2020 was arrested on 15.08.2020.

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 in Crl.O.P.Nos.15663 & 15664 are students and that during COVID 19 period, they were employed by the main accused / the owner of the Mahalakshmi Stores for loading and unloading in his business premises and other than that they have no other role to play in this case. He would further submit that the petitioners have been engaged in the said work by the main accused / the owner of the Mahalakshmi Stores. He would further submit that taking into consideration of the huge quantity of the contraband, the respondent police have taken steps to detain the main accused / A1 under Act 14 and he has also been detained under Act 14 pursuant to the order passed by the District Collector, Cuddalore District. He would further submit that the petitioners have no previous cases against them.

4.The learned Government Advocate (Crl. Side) would vehemently oppose stating that the petitioners were illegally found in possession of banned tobacco products worth Rs.1,20,00,000/-. He would further submit that the petitioners are the sub-distributors under the main distributors. He would further submit that the petitioners have no previous cases against them.

5.At this juncture, the learned counsel appearing for the petitioners would submit that even in the confession statement of A1, it has been stated that the petitioners have been engaged for the purpose of loading and unloading. On instructions, he would further submit that without prejudice to his defence, the petitioners are prepared to make considerable donation to any charitable Organization or Association, and that the petitioner has been suffering incarceration from 08.09.2020, 15.08.2020 respectively.

6.In order to curb the illegal activities and taking into consideration of 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 deposit separately a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each, as non-refundable deposit through RTGS/NEFT to the **"Chief Minister's Public Relief Fund, Indian Overseas Bank, Secretariat Branch, Chennai SB.A/c. No.117201000000070, IFSC Code. No.IOBA0001172"** and on such payment and production of proof, the petitioners shall be released on bail on further condition to execute a separate bond for a sum of Rs.10,000/- (Ten Thousand only) each with two sureties each for a likesum sum to the satisfaction of the the learned Judicial Magistrate No.III, Cuddalore, and on further conditions that;

(b) 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.

(c) the petitioners 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 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.

7. With the above directions, these Criminal Original Petitions are ordered.

-sd/-

16/10/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE NO-III,
CUDDALORE.

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE STATION HOUSE OFFICER,
THIRUPAPULIYUR POLICE STATION,
CUDDALORE DISTRICT.

5 THE SUPERINTENDENT
CENTRAL PRISON, CUDDALORE

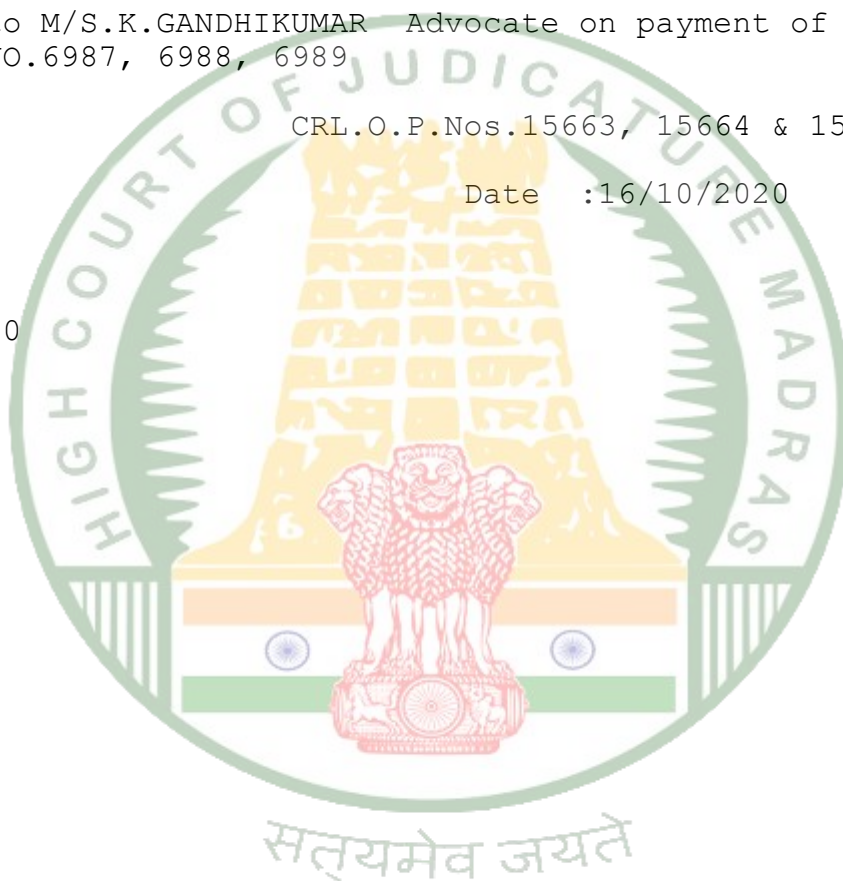
6 THE CHIEF MINISTERS PUBLIC
RELIEF FUND, INDIAN OVERSEAS BANK,
SECRETARIAT BRANCH, CHENNAI SB.A/C. NO.
117201000000070, IFSC CODE. NO.IOBA0001172"

+3 CC to M/S.K.GANDHIKUMAR Advocate on payment of necessary
charges SR.NO.6987, 6988, 6989

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Date :16/10/2020

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