

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No. 16068 of 2020

1.Bhaveshkumar
2.Sathish

... Petitioners/Accused Nos.1 & 2

Vs.

The State represented by,
Pallikonda Police Station,
Vellore District.
(Crime No. 944 of 2020
dated 18.08.2020)

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to
enlarge the petitioners on bail in Crime No. 944 of 2020, on the file
of the respondent police.

For Petitioners : Mr.S.Ravichandran

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 18.08.2020 for the offences punishable under Sections 7(5)
and 20(2) Cigarette and other Tobacco Products Act, 2003 and 328 of
IPC, 1860, in Crime No. 944 of 2020 on the file of the respondent
police, seek bail.

2 The case of the prosecution is that the petitioners were
found in illegal transportation of banned tobacco products weighing
787 kgs, which worth Rs.7,83,300/-. Hence, the complaint.

3 The learned counsel appearing for the petitioners would
submit that the petitioners are innocent persons and they have been
falsely implicated in this case. He would submit that this is the
second application for bail and the earlier application for bail was
dismissed by this Court in Crl.O.P.No.14062 of 2020, dated 10.09.2020
and that the petitioners are in custody from 18.08.2020. On
the other hand, the respondent would further submit that taking into consideration

of the Covid pandemic situation, the petitioners without prejudice to their contentions and defence, are prepared to make considerable donation to any charitable Organization or Association. Hence, he prays to grant bail to the petitioners.

4 The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioners were arrested on 18.08.2020, for being found in possession of huge quantity banned tobacco products, which worth Rs.7,83,300/-. He would submit that the first accused belongs to Rajasthan and second accused belongs to Krishnagiri and that yet another accused has to be apprehended. He would further submit that taken into consideration the huge quantity of banned tobacco products, the bail application may be dismissed.

5 At this juncture, the learned counsel appearing for the petitioners would submit that though the first petitioner is a native of Rajesthan, the he is prepared to abide by any stringent condition that may be imposed on him by this Court and he is prepared to furnish one local surety and one relative surety and he is also prepared to make some payments to any charitable organization or association, working for cancer patients. Hence, he prays to grant bail to the petitioners.

6 In order to curb the illegal activities and taking into consideration 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 first petitioner shall be directed to deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only) and the second petitioner shall be directed to deposit a sum of Rs.25,000/- (Rupees Twenty 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, they shall be released on bail on further condition that

(i) the first petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, out of the two sureties, one surety should be a local surety and other surety should be a relative surety, each for a likesum sum to the satisfaction of the the learned Judicial Magistrate No.V, Vellore.

(ii) the second petitioner shall execute a separate bond for a sum of Rs.15,000/- (Rupees Fifteen Thousand only) with two sureties, each for a likesum sum to the satisfaction of the the learned Judicial Magistrate No.V, Vellore, and on further conditions that;

(a) 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.

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

(c) 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;

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

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

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

(g) 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];

(h) if the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

7 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

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

TO

1 THE JUDICIAL MAGISTRATE,
NO.V, VELLORE.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 PALLIKONDA POLICE STATION,
VELLORE DISTRICT.

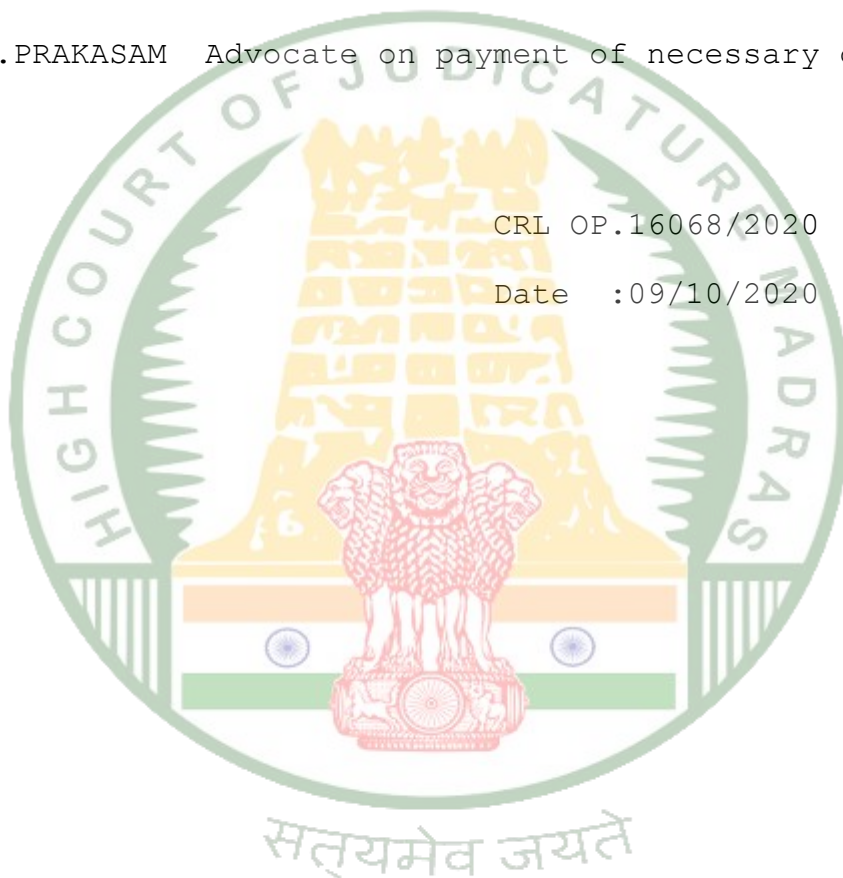
6 THE CANCER INSTITUTE (WIA)
(REGIONAL CANCER CENTRE),
ADYAR, CHENNAI - 600020,
BEARING A/C.NO.149710011005477,
ANDHRA BANK, MADHYA KAILASH BRANCH

+1CC to M/S.J.PRAKASAM Advocate on payment of necessary charges
SR.No.6781

CRL OP.16068/2020

Date :09/10/2020

cs 12/10/2020



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