

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.No.16149 of 2020

Nirmal Singh

... Petitioner

Vs.

State Rep by Inspector of Police,
Rasipuram Police Station,
Namakkal District. Respondent
(Crime No.1540 of 2020)

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.1540 of 2020 on the file of the respondent police.

For Petitioner : Mr.R.Nalliyappan

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 15.09.2020 for the offence punishable under Sections 328 of IPC r/w Section 7(1) of Cigarettes and other Tobacco Products Act 2003, in Crime No.1540 of 2020, seeks bail.

2. The case of the prosecution as per the defacto complainant Bharathimohan, Inspector of Police, Rasipuram Police Station is that on 14.09.2020, when he along with his party was conducting vehicle check up, the petitioner along with other accused was found transporting huge quantity of banned tobacco products worth about Rs.5,24,000/-. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. However, on instruction he would further submit that taking into consideration 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 15.09.2020. Hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) would vehemently oppose stating that the petitioner/A2 who is the owner of the contraband along with other accused was found transporting huge quantity of banned tobacco products (Hans, Vimal Pan Masala, Coolip and RMD) worth about Rs.5,24,000/-. He would further submit that there is no previous case against the petitioner.

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.50,000/- (Rupees Fifty 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, Rasipuram, and on further conditions that;

(a) 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.

(b) the petitioner 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 petitioner shall not commit any offences of similar nature;

(f) the petitioner shall not abscond either during investigation or trial;

(e) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(f) 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];

(g) 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/-
16/10/2020

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,
RASIPURAM.

2 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL [FOR INFORMATION]

3 THE JAILER,
SUB-JAIL, NAMAKKAL.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
RASIPURAM POLICE STATION,
NAMAKKAL DISTRICT.

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

CC to M/S. R.NALLIYAPPAN Advocate on payment of necessary charges

CRL OP.16149/2020

Date :16/10/2020

MK:19/10/2020