

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.16311 of 2020

M.Shagul Amit

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
R7, K.K.Nagar Police Station,
Chennai.
(Crime No.899 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.899 of 2020 on the file of the respondent police.

For Petitioner : Mr.D.Alexis Sudhakar

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 23.09.2020 for the offence punishable under Section 24 (1) of COTPA Act R/w 328 of IPC in Crime No.899 of 2020, seeks bail.

2. The case of the prosecution as per the defacto complainant Sivakumar, Inspector of Police, K.K. Nagar Police Station is that on 23.09.2020, when he was on his usual rounds along with his party, the petitioner was found in possession of banned tobacco products worth about Rs.1,00,000/-. 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 23.09.2020. Hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) would vehemently oppose stating that the petitioner was found in possession of huge quantity of banned tobacco products worth about Rs.1,00,000/-. 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.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, 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 XXIII Metropolitan Magistrate, Saidapet, Chennai, 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 METROPOLITAN MAGISTRATE NO.XXIII,
SAIDAPET, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI.[FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON II, PUZHAI,
CHENNAI-66.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
R-7,K.K.NAGAR POLICE STATION,
CHENNAI.

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.D.ALEXIS SUDHAKAR Advocate on payment of
necessary charges SR NO.7031

CRL OP.16311/2020

Date :16/10/2020

MK:20/10/2020