

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.11.2020

CORAM :

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

CRL.O.P.No.16759 of 2020

1.Abishek
2.Shanmugam

... Petitioners

Vs.

State, rep.by the
Inspector of Police,
Royakottai Police Station,
Krishnagiri District.
(Crime No.617 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.617 of 2020 on the file of the respondent Police.

For Petitioners : Mr.V.Sakkarapani

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

O R D E R

(The cases have been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 07.10.2020 for the offences punishable under Section 273, 328 of IPC r/w 7, 20 (1) of Cigarette and other Tobacco Products Act 2003, in Crime No.617 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioners along with other accused were illegally transported banned tobacco products worth about Rs.28,20,000/-. Hence, this complaint.

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 are the friends of the other accused. On instructions, he would further submit that taking into consideration of the Covid pandemic situation, the petitioners without prejudice to their defence, are prepared to make considerable donation to any charitable Organization or Association, and that the petitioners have been suffering incarceration from 07.10.2020.

4.The learned Government Advocate (Crl. Side) would vehemently oppose stating that the petitioners are father and son and they belong to the gang which was illegally dealing with the banned tobacco products. He would further submit that the petitioners have gone as pilots before the vehicle carrying banned tobacco products. He would further submit that there are no previous cases against these petitioners.

5.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 jointly 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, they 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 District Munsif Cum Judicial Magistrate, Denkanikottai, 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.

6. With the above directions, this Criminal Original Petition is ordered.

-sd/-
04/11/2020

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 DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, DENKANIKOTTAI

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ROYAKOTTAI POLICE STATION,
KRISHNAGIRI DISTRICT.

5 THE OFFICER INCHARGE,
SUB JAIL, HOSUR.

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. V.SAKKARAPANI Advocate on payment of necessary charges

CRL OP.16759/2020

Date : 04/11/2020

RVR 05/11/2020