

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.Nos.17471, 17474 & 17654 of 2020

O.Suresh ... Petitioner in Crl.O.P.No.17471 of 2020

G.Pawankumar ... Petitioner in Crl.O.P.No.17474 of 2020

Sribal Sangvi ... Petitioner in Crl.O.P.No.17654 of 2020

Vs.

The State Rep. By:

The Inspector of Police,
Perambalur Police Station,
Perambalur District.

Crime No.2113 of 2020 ... Respondent in all Crl.O.Ps

Common Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioners on bail in Crime No.2113 of 2020 pending investigation before the respondent police station.

In Crl.O.P.No.17471 of 2020

For Petitioner : Mr.N.Senthilkumar

In Crl.O.P.No.17474 of 2020

For Petitioner : Mr.P.Muthamizh Selvakumar

In Crl.O.P.No.17654 of 2020

For Petitioner : Mr.N.R.Elango

Senior Counsel for Mr.S.Xavier Felix

For Respondent : Mr.T.Shunmugarajeswaran

(in all Crl.OPs) Government Advocate (Crl. Side)

COMMON ORDER

(These cases have been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 03.10.2020 for the offences punishable under Sections 328 of IPC and 20(2) of Cigarettes and other Tobacco

Products Act 2003, in Crime No.2113 of 2020 on the file of the respondent police, seek bail.

2.The case of the prosecution as per the defacto complainant is that the petitioners were found in possession of banned tobacco products worth about Rs.3,00,000/-. Hence the complaint.

3. Mr.N.R.Elango, the learned Senior Counsel appearing for the petitioner in Crl.O.P.No.17654 of 2020 would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that the petitioner has been suffering incarceration for more than a month from 03.10.2020. Hence, he prays for grant of bail to the petitioner.

4. Mr.P.Muthamizh Selvakumar, learned counsel appearing for the petitioner in Crl.O.P.No.17474 of 2020 would submit that this is the second application for bail and earlier application in Crl.O.P.No.16676 of 2020 was dismissed by this Court on 22.10.2020. He would further submit that the petitioner is in judicial custody for more than a month from 03.10.2020. Hence, he prays for grant of bail to the petitioner.

5. M/s.Girija, learned counsel appearing for the petitioner in Crl.O.P.No.17471 of 2020 would submit that this is the second application for bail and the earlier application in Crl.O.P.No.16990 of 2020 was dismissed by this Court on 22.10.2020. She would further submit that the petitioner is in judicial custody for more than a month from 03.10.2020. Hence, she prays for grant of bail to the petitioner.

6.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioners were found in possession of banned tobacco products worth about Rs.3,00,000/-. He would further submit that as far as the petitioners in Crl.O.P.No.17654 of 2020 and Crl.O.P.No.17474 of 2020 are concerned, they have got two previous cases against them and insofar as the petitioner in Crl.O.P.No.17471 of 2020 is concerned, he has got no previous case. However, he opposed for grant of bail to the petitioners.

7. At this juncture, the learned counsel for the petitioners would submit that the petitioners are prepared to make considerable donation to any charitable Organization or Association and are prepared to abide by any stringent condition.

8. 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 petitioner in CrI.O.P.No.17471 of 2020 shall be directed to deposit a sum of Rs.15,000/- (Rupees Fifteen Thousand Only) and the petitioner in CrI.O.P.No.17474 of 2020 is directed to deposit a sum of Rs.30,000/- (Rupees Thirty Thousand Only) respectively, to the Cancer Institute (WIA) (Regional Cancer Centre), Adyar, Chennai - 600020, bearing A/c.No.149710011005477, Andhra Bank, Madhya Kailash Branch, and on such payment and production of proof, they shall be released on bail on condition to execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.1, Perambalur, and

9. the petitioner in CrI.O.P.No.17654 of 2020 shall be directed to deposit a sum of Rs.30,000/- (Rupees Thirty Thousand Only) to the Cancer Institute (WIA) (Regional Cancer Centre), Adyar, Chennai - 600020, bearing A/c.No.149710011005477, Andhra Bank, Madhya Kailash Branch, and on such payment and production of proof, he shall be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, Perambalur, 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 absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
10/11/2020

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 JUDICIAL MAGISTRATE NO.I,
PERAMBALUR.

2 THE JUDICIAL MAGISTRATE,
PERAMBALUR.

3 THE CHIEF JUDICIAL MAGISTRATE
PERAMBALUR [FOR INFORMATION]

4 THE JAILER,
SUB-JAIL, PERAMBALUR.

5 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

7 THE INSPECTOR OF POLICE,
PERAMBALUR POLICE STATION,
PERAMBALUR DISTRICT.

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

CC to M/S.N.SENTHILKUMAR Advocate on payment of necessary
charges

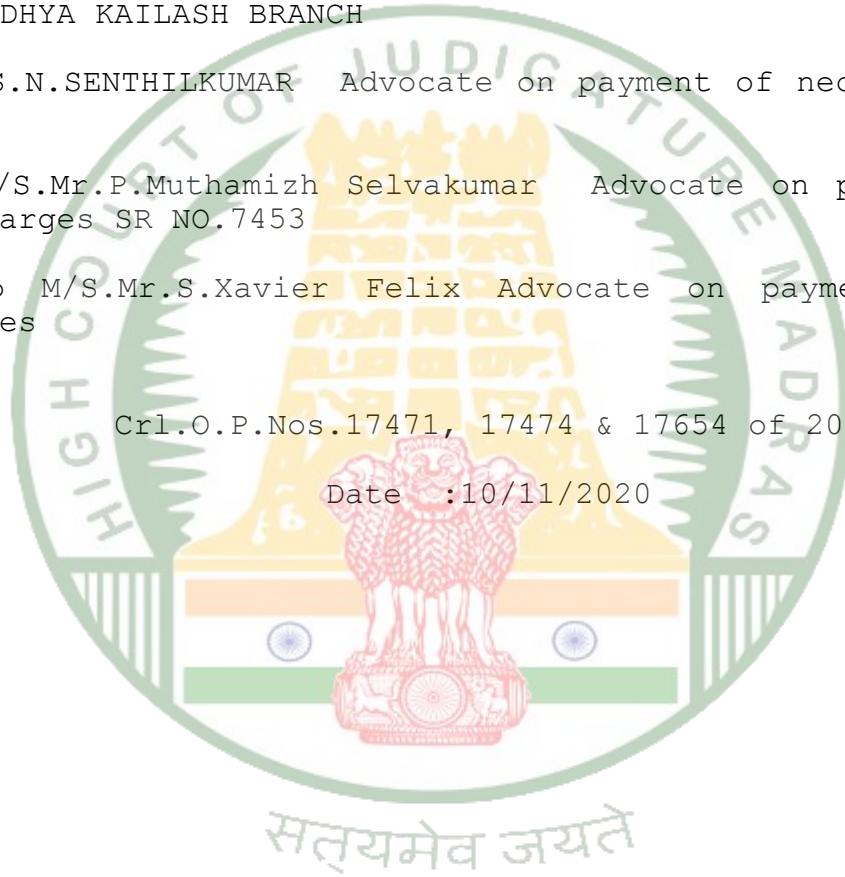
+1CC to M/S.Mr.P.Muthamizh Selvakumar Advocate on payment
of necessary charges SR NO.7453

+2CC to M/S.Mr.S.Xavier Felix Advocate on payment of
necessary charges

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Date :10/11/2020

MK:11/11/2020



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