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.17252 of 2020

1.Mularam ... Petitioners
2.Thellaram
3.Mahendar

Vs.

The State of Tamilnadu rep.By ... Respondent
The Inspector of Police,
E-1, Singanallur Police Station,
Coimbatore.
(Crime No.1799 of 2020)

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.1799 of 2020 pending on the file of the respondent police.

For Petitioner : Mr.S.N.Subramani

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

ORDER

(The cases have been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 25.09.2020 for the offences punishable under **Section 270, 328 of IPC r/w 7(1) and 20(1) of COTPA Act**, in Crime No.1799 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that based on a secret information, the respondent police conducted a search in SIHS Colony wherein, they found banned tobacco products were stored in white colour plastic bags. On enquiry, it was found that the petitioners who belong to Rajasthan, had stored the same and intended to sell. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioners are innocent and they have been falsely implicated in this case. He would further submit that the petitioner are doing home appliances business and they are no way connected with the alleged offence and that the petitioners have been suffering incarceration for more than 40 days from 25.09.2020. Hence, he prays for grant of bail to the petitioners.

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4.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that on a secret inform, on 25.09.2020, the respondent police conducted a search at SIHS Colony and found some white colour plastic bags containing banned tobacco products viz. RMD 2 bags - each containing 40 kgs, Vimal 10 bags-each containing 30 kgs., Vimal 9 bags-each containing 10 kgs., Cool Lip 3 bags-each containing 35 kgs. and Hans 3 bags-each containing 30 kgs. which is worth about Rs.3 lakhs. Later on enquiry, it was found that the petitioners had stored the same for selling. He would further submit that the petitioners belong to Rajasthan. Hence, he vehemently opposed for grant of bail.

5. At this juncture, the learned Counsel for the petitioners would submit that the petitioners are prepared to abide by any stringent condition that to be imposed on them by this Court and on instruction, he would further submit that without prejudice to their defence, the petitioners are prepared to deposit considerable amount to any charitable Organization or Association.

6.Taking into consideration of the facts and submissions made by the learned counsels and also taking into consideration of the period of incarceration suffered by the petitioners, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) Accordingly, the petitioners are directed to deposit a sum of **Rs.5,000/- (Rupees Five Thousand Only) each**, as non-refundable deposit through RTGS/NEFT 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 further condition to execute a separate 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-III, Coimbatore**, and on further conditions that;

(b) 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;

(c) 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.

(d) the petitioners on their release from prison, shall report before the respondent police daily at 10.30 a.m., until further orders;

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

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

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(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.

7.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

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

TO

1 THE JUDICIAL MAGISTRATE NO-III,
COIMBATORE.

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
E-1, SINGANALLUR POLICE STATION,
COIMBATORE.

5 THE SUPERINTENDENT
CENTRAL PRISON, COIMBATORE.

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

+1 CC to M/S. S.N.SUBRAMANI Advocate on payment of necessary charges SR.NO.7254

CRL OP.17252/2020

Date :04/11/2020

TA-05/11/2020

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