

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.11.2020

CORAM :

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

CRL.O.P.No.17259 of 2020

R.SIVA

... Petitioner

Vs.

State, represented by
The Inspector of Police,
B.4, Baluchettychathiram Police Station,
Kancheepuram District.
(Crime No.1637 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in connection with Crime No.1637 of 2020, pending investigation on the file of the respondent police.

For Petitioner : Mr.R.Sankarasubbu

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 08.10.2020 for the offences punishable under Sections 353, 307 of IPC r/w 7, 6, 9(2), 20(1) 24(1) of Cigarette and other Tobacco Products Act 2003, in Crime No.1637 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant, Sub Inspector of police is that, when they conducted the routine patrol duty, they found that the petitioner along with another accused on 08.10.2020 was illegally found in possession of banned tobacco products worth about Rs.3 Lakhs. When the defacto complainant attempted to stop the vehicle, they have tried to assault the defacto complainant by running the van over them. Hence, this complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. On instructions, he would further submit that taking into consideration of 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 08.10.2020.

4.The learned Government Advocate (CrI. Side) would vehemently oppose stating that the petitioner along with another accused was illegally found to be in possession of banned tobacco products worth Rs.3 Lakhs The further allegation is that when the defacto complainant attempted to stop their vehicle, they have also attempted to assault the defacto complainant. He would further submit that the petitioner has no previous cases against him.

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 Judicial Magistrate-I, Kancheepuram, and on further conditions that;

(b) 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.

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

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

(g) the petitioner 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 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];

(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/-

06/11/2020

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, KANCHEEPURAM

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
B-4, BALUCHETTYCHATHIRAM POLICE STATION,
KANCHEEPURAM DISTRICT.

5 THE OFFICER INCHARGE,
SUB JAIL, KANCHEEPURAM

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

+2 CC to M/S.R.SANKARASUBBU Advocate on payment of necessary charges Sr.7372 & 7341

WEB COPY

CRL OP.17259/2020

Date :06/11/2020

RVR 09/11/2020