

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.11.2020

CORAM :

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

CRL.O.P.No.17857 of 2020

Sakthivel

... Petitioner

Vs.

State by

The Inspector of Police,
Rayakottai 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 petitioner on bail in Crime No.617 of 2020 on the file of the respondent police.

For Petitioner : Mr.C.S.Saravanan

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 04.10.2020 for the offences punishable under Section 273, 328 of IPC r/w Section 7, 20(1) of COTPA 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 petitioner along with other accused was illegally transported banned tobacco substances worth Rs.28,20,000/- in a container lorry. Hence the 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. He would submit that other accused had informed that the lorry was detained by the villagers, hence, the petitioner was sent to the village to discuss with the Panchayatdhars for the release of the lorry. The petitioner without knowing the actual issue had gone to the village and has been falsely implicated in this case as if he is one of the persons involved in the transport of banned tobacco products.

4.The learned Government Advocate (Crl. Side) would vehemently oppose stating that the petitioner along with other accused has illegally transported banned tobacco products worth Rs.28,20,000/- in a container lorry. When the other accused attempted to shift the contraband from one vehicle to another, the same was questioned by the villagers, at that time, the petitioner being the part of the gang, discussed with the villagers to release the vehicle . He would further submit that the petitioner was also aware of the contraband transported in the vehicle.

5.At this juncture, the learned counsel on instructions would 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 04.10.2020.

6.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.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, 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, Denkanikottai 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;

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

(f) the petitioner 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 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];

(h) 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/-
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 DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
DENKANIKOTTAI.

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI [FOR INFORMATION]

3 THE JAILER,
SUB-JAIL, HOSUR.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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5 THE INSPECTOR OF POLICE,
RAYAKOTTAI POLICE STATION,
KRISHNAGIRI DISTRICT.

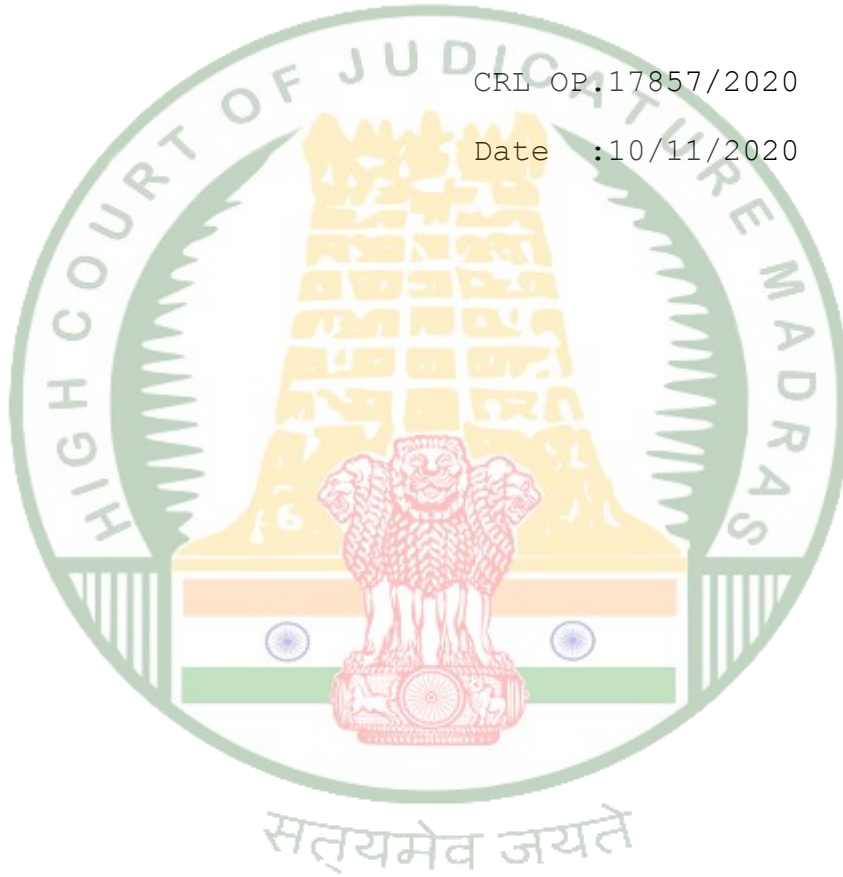
6 THE CANCER INSTITUTE (WIA) (REGIONAL CANCER CENTRE),
ADYAR, CHENNAI - 600020,
BEARING A/C.NO.149710011005477,
ANDHRA BANK, MADHYA KAILASH BRANCH

CC to M/S. C.S.SARAVANAN Advocate on payment of necessary
charges

CRL OP.17857/2020

Date :10/11/2020

MK:11/11/2020



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