

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.11.2020

CORAM :

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

CRL.O.P.No.18059 of 2020

Zia-ul-Hug

... Petitioner

Vs.

State by

... Respondent

The Inspector of Police,
Shevapet Police Station,
Salem District.
(Crime No.1061 of 2020)

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.1061 of 2020 on the file of the Inspector of Police, Shevapet Police Station, Salem District.

For Petitioner : Mr.S.Jeyakumar

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 09.10.2020 for the offence punishable under **Sections 77 of the Juvenile Justice (Cate and protection of Children) Act 2015 r/w. Sections 6, 24(1) of Cigarette and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003**, in Crime No.1061 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant viz., M.Balan, who is the Sub-Inspector of Police attached to the respondent police station is that on 09.10.2020 at about 08.00 a.m., while he was on his patrol duty, he had seen one person viz., Sampath coming against him and on seeking police, he had attempted to get away from the place and on search, the said Sampath was found to be in possession of banned tobacco substances and when the defacto complainant had enquired him, the said Sampath had informed that one person was standing near Looka Traders and selling banned tobacco substances. Based on the information, the defacto complainant had

gone there and seen the petitioner with a cloth bag and on search, he was found to be in possession of banned tobacco substances and when the defacto complainant had enquired him, the petitioner had informed that he was keeping banned tobacco substances to sell it to schools and college going students after the schools are re-opened and the defacto complainant has apprehended him on the same place and later remanded to the judicial custody.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would submit that earlier the petitioner was falsely implicated in a case in Crime No. 892 of 2020 and he has approached this Court in Crl.O.P.No.14841 of 2020 and this Court was pleased to grant anticipatory bail by an order dated 22.09.2020. Since, the petitioner was granted anticipatory bail, the respondent police got antagonized against the petitioner and when the petitioner had gone to the police station to comply with the condition they have filed another false case against him. He would further submit that the respondent have registered this case due to vendetta and that the petitioner is in custody from 09.10.2020. Hence, he prays to grant bail to the petitioner.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner was found to be in possession of banned tobacco substances with an intention to sell it to schools and college going students after the schools are re-opened. He would also submit that this Court had granted anticipatory bail to the petitioner in Crime No. 892 of 2020 in Crl.O.P.No.14841 of 2020, dated 22.09.2020. However, he opposed to grant bail to the petitioner.

5.Taking into consideration of the facts and submissions made by the learned counsel and considering the fact that the petitioner was earlier granted anticipatory bail by this Court in Crime No.892 of 2020 in Crl.O.P.No.14841 of 2020, dated 22.09.2020, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to 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 No.III, Salem 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) the petitioner shall report before the Judicial Magistrate No.III, Salem for a period of one week and thereafter on the first working day of every month until further orders.

(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;

(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 abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

18/11/2020

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.III, SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
SHEVAPET POLICE STATION,
SALEM DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

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

CRL OP.18059/2020

Date :18/11/2020

TA-19/11/2020