



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No. 18505 of 2020

Obsingh

... Petitioner

Vs.

The State represented by,
The Sub-Inspector of Police,
Perambalur Police Station,
Perambalur District.

Crime No. 2113 of 2020.

... Respondent/Complainant

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

For Petitioner : Mr.C.Prabakaran

For Respondent : Mr.T.Shunmugarajeswaran

Government Advocate (CrI. Side)

O R D E R

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 21.09.2020 for the offences punishable under Sections **20(2) of Cigarette and Other Tobacco Products Act 2003 r/w Section 328 of IPC**, in Crime No.2113 of 2020 on the file of the respondent police, seeks bail.

2 The case of the prosecution as per the defacto complainant is that the petitioner along with two other accused was illegally found to be in possession of 19 While gunny bags of Hans bundles worth Rs.3 Lakhs in his car without any valid licence or permit. Hence, the complaint.

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. On instruction, he would further submit that taking into consideration 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 21.09.2020. He would further submit that co-accused have been granted bail in CrI.O.P.Nos.17111, 17654, 17471 and 17474 of 2020. Hence, he prays to grant bail to the petitioner.

4 The learned Government Advocate (CrI. Side) would vehemently oppose stating that the petitioner along with two other accused was illegally found to be in possession of 19 While gunny bags of Hans bundles, worth Rs.3 Lakhs in his car, without valid licence or permit. He would further submit that the petitioner has no previous case of similar nature against him.

5 In order to curb the illegal sand mining activities and taking into consideration 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.10,000/- (Rupees Ten 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/- (Rupees Ten Thousand only) with two sureties, each for a likesum to the satisfaction of the the **learned Judicial Magistrate Court, Perambalur**, and on further conditions that;

(a) the petitioner shall report before the respondent police everyday at 10.30 a.m. until further orders.

(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 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.

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

-sd/-
24/11/2020

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 COURT, PERAMBALUR
- 2 THE CHIEF JUDICIAL MAGISTRATE
PERAMBALUR DISTRICT. [FOR INFORMATION]
- 3 THE SUPERINTENDENT, SUB JAIL, PERAMBALUR
- 4 THE PUBLIC PROSECUTOR, HIGH COURT, MADRAS.
- 5 THE SUB-INSPECTOR OF POLICE,
PERAMBALUR POLICE STATION, PERAMBALUR DISTRICT.
- 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 C.PRABAKARAN Advocate on payment of necessary charges SR.NO.7790

CRL OP.18505/2020

Date :24/11/2020

GKS:27/11/2020