

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 01.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR
Crl.O.P.No.18779 of 2020

1. Isakkimuthu
2. Saravanan

... Petitioners

Vs.

The State rep by
The Inspector of Police,
Shevapet Police Station,
Salem District.
(Crime No.1092 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioners on bail, pending investigation of the case in Crime No.1092 of 2020 on the file of the respondent.

For Petitioners : Mr.B.Vasudevan

For Respondent : Mr.T.Shunmugarajeswaran

Government Advocate (Crl. Side)

O R D E R

(The case has been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 23.10.2020 for the offences punishable under Section 77 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and Section 24 (1) of Cigarette and other Tobacco Products Act, 2003, in Crime No.1092 of 2020, on the file of the respondent police, seek bail.

2.The case of the prosecution is that when the defacto complainant conducted a search on secret information, the petitioners were illegally found in possession of 30 pockets of Hans, Vimal-1800 and banned tobacco-1200 which is worth Rs.7700/-. Hence, this complaint.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. On instructions, he would further submit that taking into consideration of the Covid pandemic situation, the petitioners without prejudice to his defence, are prepared to make considerable donation to any charitable Organization or Association, and that the petitioners have been suffering incarceration from 23.10.2020.

4.The learned Government Advocate (Crl. Side) would vehemently oppose stating that the petitioners were illegally found in possession of 30 pockets of Hans, Vimal-1800 and banned tobacco-1200 which is worth Rs.7700/-. Hence, he vehemently opposed for grant of bail to the petitioners.

5.In order to curb the illegal activities and taking into consideration the voluntary submission made by the petitioners offering to donate/pay considerable amount to any charitable organization or association this Court is of the opinion that the petitioners shall be directed to deposit a sum of Rs.5,000/- each (Rupees Thirty 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, they shall be released on bail on further condition to execute a separate bond for a sum of Rs.10,000/- (Ten Thousand only) each with two sureties each for a likesum sum to the satisfaction of the the learned Judicial Magistrate No.III, Salem, and on further conditions that;

(a) 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.

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

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

(f) the petitioners 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 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];

(h) 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/-

01/12/2020

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 SUPERINTENDENT,
CENTRAL PRISON, SALEM.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

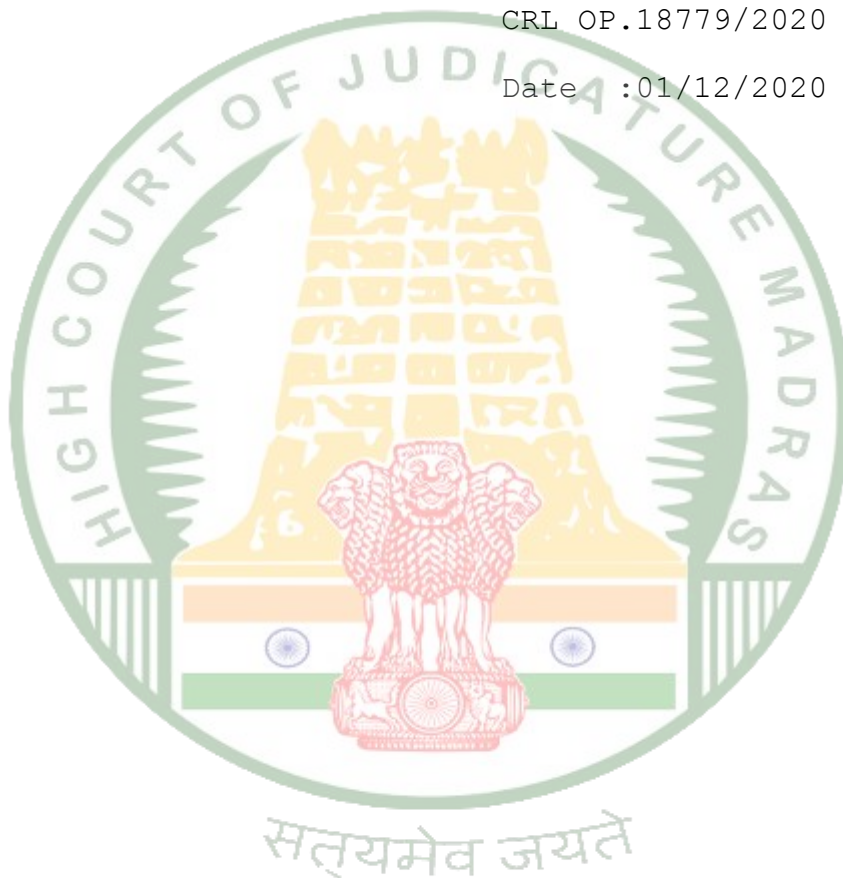
6 THE CANCER INSTITUTE (WIA) (REGIONAL CANCER CENTRE),
ADYAR, CHENNAI - 600020, BEARING A/C.NO.149710011005477,
ANDHRA BANK, MADHYA KAILASH BRANCH,

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

CRL OP.18779/2020

Date :01/12/2020

MK:02/12/2020



WEB COPY