

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.O.P.No. 18781 of 2020

Babu

... Petitioner/Sole Accused

Vs.

The State represented by,
The Inspector of Police,
C-1, Sriperumbudur Police Station,
Kancheepuram District.
(Crime No. 2687 of 2020)

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No. 2687 of 2020, on the file of the respondent police.

For Petitioner : Mr.Swami Subramaniam

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. 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 18.11.2020 for the offences punishable under Section 24(1) of Cigarette and Other Tobacco Product Acts 2003 r/w Section 328 of IPC, in Crime No. 2687 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that when the defacto complainant had conducted a search on secret information, the petitioner was illegally found in possession of 2250 packets of Hans, 168 packets of Cool lip, 580 packets of Suvakpakku, 2340 packets of Vimal pakku, 1560 packets of MDM Pakku, 600 packets of Remo Pakku and 480 packets of RMD Pakku. Hence, this complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner are 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 had been suffering incarceration from 18.11.2020.

4.The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the petitioner was found in illegal possession of banned tobacco products viz., 2250 packets of Hans, 168 packets of Cool lip, 580 packets of Suvakpakku, 2340 packets of Vimal pakku, 1560 packets of MDM Pakku, 600 packets of Remo Pakku and 480 packets of RMD Pakku. Hence, he opposed to grant bail to the petitioner.

5.In order to curb the illegal 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.30,000/- (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, he shall be released on bail on further condition to execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a likesum sum to the satisfaction of the the learned Judicial Magistrate Sriperumbudur, Kancheepuram District, and on further conditions that;

(b) Merely, because the petitioner deposit 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., for a period of two weeks and thereafter, every Monday 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/-

30/11/2020

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,
SRIPERUMBUDUR, KANCHEEPURAM DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
C-1 SRIPERUMBUDUR 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,

CC to M/S.SWAMI SUBRAMANIAM Advocate on payment of necessary charges SR.NO.7820

WEB COPY

CRL OP.18781/2020

Date :30/11/2020

RVR 02/12/2020