

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.18913 of 2020

Kandasamy

... Petitioner

Vs.

The State rep. By
The Inspector of Police
Shevapet Police Station
Salem District
Crime No.1158 of 2020

... Respondent

Prayer: Criminal Original Petition filed under Section 439 of Criminal Procedure Code, praying to enlarge the petitioner on bail in Crime No.1158 of 2020 pending investigation on the file of the respondent.

For Petitioner : Mr.B.Vasudevan

For Respondent : Mr.T.Shanmugarajeswaran
Government Advocate (Crl.Side)

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 31.10.2020, for the alleged offences under Section 77 of the Juvenile Justice (Care and Protection of Children) Act 2015 and Section 6, 24(1) of Cigarettee and other Tobacco Products Act 2003, in Crime No.1158 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner was found to be in illegal possession of banned tobacco products viz., 25 packets of Hans, 12 packets of Cool Lip, SM-1-34 pouches containing 4 packets (totally 71 packets) to the value of Rs.1300/-. Hence the complaint.

3. The learned counsel for the petitioner would submit that innocent and he has been falsely implicated in this case. On instruction, 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 is in custody from 31.10.2020 and 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 is having two six previous cases which are in similar nature. Hence, he vehemently 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.5,000/- (Rupees five thousand only)** as non-refundable deposit through RTGS/NEFT in favour of **the Cancer Institute (WIA) (Regional Cancer Centre), Adyar, Chennai-600 020, bearing A/c No.149710011005477, Andhra Bank, Madhya Kailash Branch**, and 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 like sum to the satisfaction of **the learned Judicial Magistrate No.III, Salem** and on further condition that:

[a] 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.

[b] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[c] the petitioner shall report before the respondent police daily at 10.30 a.m until further orders.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner shall not abscond either during investigation or trial.

[f] On breach of any of the aforesaid conditions, the learned 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]**.

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
02/12/2020

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 PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

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

5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

6 THE CANCER INSTITUTE (WIA) (REGIONAL CANCER CENTRE),
ADYAR, CHENNAI-600 020,
BEARING A/C NO.149710011005477,
ANDHRA BANK, MADHYA KAILASH BRANCH.

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

CRL OP.18913/2020

Date :02/12/2020