

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2020

CORAM

THE HONOURABLE Mr. JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.19146 of 2020

Ganapathi

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Rasipuram Police Station,
Namakkal District.
(Crime No. 1540 of 2020)

... Respondent/Complainant

Prayer : Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No. 1540 of 2020, on the file of the respondent police.

For Petitioner : Mr.R.Nalliyappan

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

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 15.09.2020 for the offences punishable under Section 328 of IPC and Section 7(1) of Cigarette and other Tobacco Products Acts 2003, in Crime No. 1540 of 2020, on the file of the respondent police, seeks bail.

2 The case of the prosecution as per the *de facto* complainant is that the petitioner along with other accused had supplied the banned tobacco products (100 Bundles of Hans-12 Bags, 50 Bundles of Hans-4, 200 and 50 Bundles-vimal panmasala, 47 Bundles of Coollip and 12 Box Rmd) worth about of Rs.5,00,000/-. 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. He would further submit that the entire banned tobacco products have been seized by the respondent police and that the main accused in this case have been granted bail by this Court in Crl.O.P.Nos.16327 & 16149 of 2020, dated 14.10.2020 & 16.10.2020 respectively. On instruction, he would further submit that the petitioner, without prejudice to his defence, is prepared to make considerable donation to any charitable Organization or Association. Hence, he prays for grant of bail to the petitioner.

4 The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose by stating that the petitioner along with other accused had supplied the banned tobacco products (100 Bundles of Hans-12 Bags, 50 Bundles of Hans-4, 200 and 50 Bundles-vimal panmasala, 47 Bundles of Coollip and 12 Box Rmd) worth about of Rs.5,00,000/- and the banned tobacco products have been seized by the respondent police.

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 make a payment/donation of a sum of Rs.1,00,000/- (Rupees One lakh only) to the **"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 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, Rasipuram and on further conditions that:

(a) 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;

(b) the petitioners shall report before respondent police everyday at 10.30 a.m., for a period of four weeks and thereafter, every Monday at 10.30.a.m., until further orders;

(c) the petitioner shall not commit any offences of similar nature;

(d) the petitioner shall not abscond either during investigation or trial;

(e) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(f) 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];

(g) if the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
04/12/2020

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,
RASIPURAM.

2 THE CHIEF JUDICIAL MAGISTRATE,
NAMAKKAL [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
RASIPURAM POLICE STATION,
NAMAKKAL DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

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.R.NALLIYAPPAN Advocate on payment of necessary
charges

CRL OP.19146/2020

Date :04/12/2020

MN-15/12/2020



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