

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.12.2020

CORAM :

THE HON'BLE Mr. JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P.No.20224 of 2020

C.ARUL @ ARUL CHANDRAN

... Petitioner

Vs.

State represented by
The Inspector of Police,
Deevattipatty Police Station,
Salem District.
(Crime No.786 of 2020)

... Respondent

Prayer: Criminal Original Petition is filed under Section 439 of Cr.P.C, to enlarge the petitioner on bail in Crime No.786 of 2020 on the file of the respondent police.

For Petitioner : Mr.Mohammed Aasif

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 offence punishable under Section 328 of IPC and Section 7 of Cigarette and other Tobacco Product Act, 2003 & under Section 59 of Food Safety and Standards Act, 2006, in Crime No.786 of 2020, seeks bail.

2. The case of the prosecution as per the de facto complainant, the Sub Inspector of police attached to the respondent police is that on 18.11.2020 at about 13.30 hrs. the petitioner was found in possession of banned tobacco products namely Hans and Vimal Pan Masala worth Rs.2,03,700/-.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. He would further submit that the petitioner has been suffering incarceration from 18.11.2020. Hence, he prays for grant of bail.

4.The learned Government Advocate (Crl. Side) would vehemently oppose stating that the petitioner was found in illegal possession of banned tobacco products namely Hans and Vimal Pan Masala worth Rs.2,03,700/-. He would further submit that the petitioner has got

5. At this juncture, the learned counsel for the petitioner on instructions would submit that without prejudice to his defence, the petitioner is prepared to make considerable donation to any charitable Organization or Association in order to show his bonafide.

6. In order to curb the illegal activities and taking into consideration of 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.50,000/- (Rupees Fifty Thousand only) as non-refundable deposit through RTGS/NEFT in favour of "The Dean, Rajiv Gandhi Government General Hospital, Chennai, bearing A/c. No.10273425961, State Bank of India, Park Town (Chennai), 68, Evening Bazaar Road, Chennai, IFSC:SBIN0001856, 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/- (Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Omalur, and on further conditions that;

(a) 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.

(b) the petitioner 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 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.

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

-sd/-

17/12/2020

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,
OMALUR

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM(FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
DEEVATTIPATTY POLICE STATION,
SALEM.

5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

6 THE DEAN, RAJIV GANDHI GOVERNMENT GENERAL HOSPITAL,
CHENNAI, BEARING A/C. NO.10273425961, STATE BANK OF INDIA,
PARK TOWN (CHENNAI), 68, EVENING BAZAAR ROAD,
CHENNAI, IFSC:SBIN0001856,

+2 CC to M/S.MOHAMMED AASIF Advocate on payment of necessary charges Sr.8352

WEB COPY

CRL OP.20224/2020

Date :17/12/2020

RVR 18/12/2020