IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.5503 of 2021

Abbas @ Pathi Abbas ... Petitioner

Vs.

State rep. by ... Respondent
The Inspector of Police,
B-4 Ukkadam Police Station,
Coimbatore Dt.
(Crime No.53/2021)

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Cr.No.53 of 2021 on the file of the respondent Police.

For Petitioner : Mr.C.D.Sugumar

For Respondent : Mrs.M. Prabhavathi,
Addl. Public Prosecutor

ORDER

(The case has been heard through video conference)

Totally, there are two accused and the petitioner is arrayed as A2. The petitioner, who was arrested and remanded to judicial custody on 20.01.2021 for the offence punishable under Sections 7(1) and 20 (1) of COTPA Act, 2003 read with Section 328 of I.P.C., in Crime No.53 of 2021, seeks bail.

2. The case of the prosecution is that both the accused have transported huge quantity of banned tobacco products. Hence, a criminal case has been registered, and the petitioner was arrested and remanded to judicial custody on 20.01.2021. Now, this petition has been filed seeking for bail.

3. The learned counsel appearing for petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would submit that he is only a driver and he is not a owner. Now, the other accused A2 was arrested and released on bail by the Sessions Court. He would submit that the petitioner is in jail for more than two months and so far, no final report has been filed. Hence, he prayed to grant bail to the petitioner.

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https://hcservices.ecourts.gov.in/hcservices/

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner has transported huge quantity viz., 8000 bags containing 475 kgs. of banned tobacco products. She would submit that the other accused A1 was arrested and released on bail. Hence, she opposed to grant bail to the petitioner.

5. Taking into consideration of the fact that the co-accused A2 was arrested and released on bail and also considering the period of incarceration suffered by the petitioner for more than two months, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to 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 No.V, Coimbatore,** and on further conditions that:

(b) 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;

(c) **the petitioner, after his release from prison, shall report before the respondent police daily at 10.30 a.m. until further orders;**

(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;

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(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.

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

-sd/-
19/03/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NO.V, COIMBATORE.

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 STATE REP BY INSPECTOR OF PO
LICE, B4, UKKADAM POLICE STATION, COIMBATORE
(CRIME NO. 53/2021)

5 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

+1 CC to M/S C.D.SUGUMAR Advocate on payment of necessary charges SR.NO.3692

CRL OP.5503/2021

Date :19/03/2021

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