

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.05.2021

CORAM

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

Crl.O.P.No. 9298 of 2021

Kaikondan @ Kathir

... Petitioner/ Accused-2

Vs.

State rep. by

Inspector of Police,

R-5, Virugambakkam Police Station,

Chennai - 600 092.

(Crime No.165 of 2021)

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to grant bail to the petitioner, concerned in Cr.No.165 of 2021 on the file of Respondent Police.

For Petitioner : Mr.Vellaisamy Ravi

For Respondent : Mr.E.Rajthilak

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 27.04.2021 for the offence punishable under Sections 328 of IPC and 6(a) of Cigarette and other Tobacco Products Act 2003 in Crime No.165 of 2021 of R-5, Virugambakkam Police Station has filed the present bail petition.

2. The case of the prosecution is that on 27.04.2021 on an information, the respondent Police conducted a raid in a house at Virugambakkam and found the petitioner and one Paramasivam (A1) were in illegal possession of banned tobacco items. Hence, the complaint.

3. The learned counsel appearing for the petitioner contended that the petitioner is innocent and he has been falsely implicated in this case. He also contended that the accused No.1 has been released on bail by this Court on 12.05.2021 in Cr.OP.No.8974 of 2021.

4. The learned Government Advocate (Criminal Side) opposed the bail petition on the ground that the investigation is still pending.

5. Considering the nature of the offence and the number of days of incarceration of the petitioner and also the fact that the accused No.1 has been released on bail, this Court is inclined to grant bail on the following conditions:

(a) the Petitioner shall make a non refundable deposit of Rs.25,000/- (Rupees twenty five thousand only) through demand drat or Electronic Clearing System to the credit of the Chief Minister's Relief Fund, without prejudice to his defence before the trial Court and the learned Judicial Magistrate, after perusing the challan/receipt, shall accept the sureties furnished by the petitioner;

(b) The Petitioner is ordered to be released on bail on executing his own bond for a sum of Rs.10,000/- (Rupees ten thousand only), before the Central Prison, Puzhal and thereafter on his release;

(c) The Petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties for a like sum each to the satisfaction of the XXIII M.M.Saidapet, Chennai within a period of 15 days from the date of lifting of the lockdown and the commencement of the Court's normal functioning, failing which the bail granted by this Court shall stand dismissed automatically;

(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 report before the respondent Police daily at 10.30 A.M. until further orders.

(f) the Petitioner shall not commit any offences of similar nature;

(g) the Petitioner shall not abscond either during investigation or trial;

(h) the Petitioner shall not tamper with evidence or witness either during investigation or trial;

(i) 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];

(j) 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/-
19/05/2021

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 METROPOLITAN MAGISTRATE
NO.XXIII, SAIDAPET, CHENNAI-15.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
R-5 VIRUGAMBAKKAM POLICE STATION,
CHENNAI-92.

6 THE SECRETARY
ELECTRONIC CLEARING SYSTEM TO THE CREDIT OF
THE CHIEF MINISTERS RELIEF FUND, CHENNAI.

CC to M/S.J.WILLIAM SHAKESPEARE Advocate on payment of necessary charges

CRL OP.9298/2021

Date :19/05/2021

cs 24/05/2021