

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.11229 of 2021

Nagendraan
Sivakumar

... Petitioners

Vs.

State rep.by
The Inspector of Police,
M-1 Madhavaram Police Station,
Crime No.509 of 2021.

... Respondent

PRAYER: Criminal Original petition has been filed under Section 439 of Cr.P.C, prayed to enlarge the petitioners on bail in connection with the case in Cr.No.509 of 2021 pending investigation on the file of the respondent Police.

For Petitioners : Mr.R.Thirumoorthy

For Respondent : Mr.A.Gopinath
Government Advocate (Crl side)

ORDER

The petitioners, who were arrested on 05.06.2021 and remanded to judicial custody for the offences under Section 328 IPC r/w 7, 20(1) COTPA Act, 2003 in Cr.No.509 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioners were in illegal possession of 1.5 tonnes of tobacco products worth about Rs.10 lakhs and the same was seized by the respondent Police and registered a complaint.

3. The learned counsel for the petitioners submitted that the petitioners are no way connected with the alleged offence and they have been falsely implicated in this case and the petitioners have been in jail from 05.06.2021. Therefore, he prays to grant bail to the petitioners. However, the petitioners, on their own volition, are ready and willing to contribute a sum of Rs.1,00,000/- for the purpose of improving and maintaining the Government Schools.

4. The learned Government Advocate (Crl.Side) submitted that the petitioners were in illegal possession of tobacco and there are no previous cases are pending against them and the investigation is almost completed.

5. Considering the period of incarceration suffered by the petitioners and also the present COVID-19 pandemic situation and based on the undertaking given by the petitioners to contribute an amount, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) the petitioners shall make a non-refundable deposit of **Rs.1,00,000/- (Rupees One Lakh only)** to the credit of **the Chief Educational Officer, Thiruvallur District for the rehabilitation and improvement of the basic needs of the Government Schools in the said District under necessary acknowledgement**, without prejudice to their defence before the trial Court and submit the proof of payment of the said amount before the aforesaid learned Judicial Magistrate, who after perusing the challan/ receipt/acknowledgement, shall accept the sureties furnished by the petitioner;

(b) the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the Superintendent, Central Prison, Puzhal, in which the petitioners are confined and on such execution the petitioners shall be released from prison;

(C) Within a period of four weeks after the release, the petitioners shall execute a bond for Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the learned District Munsif cum Judicial Magistrate, Madhavaram;.

(d) In case of any difficulty in executing the said bond along with the sureties before the concerned Magistrate within the time stipulated above, the petitioners are permitted to file appropriate petition within a period of four week therefrom before the concerned Magistrate for extension of time for executing the bond along with sureties and if any such application is filed, the concerned Magistrate shall decide on the grant of extension of time for accepting the bond and sureties in accordance with law. Failing filing of any such application within the time prescribed above, the bail granted by this Court would stand automatically vacated.

(e) 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;

(f) the petitioners shall report before the respondent police, daily at 10.30 a.m. until further orders;

(g) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(h) the petitioners shall not abscond either during investigation or trial;

(i) on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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]**; and;

(j) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

7. In the result, this Criminal Original Petition is ordered and the Chief Educational Officer shall submit the necessary proof with regard to the expenditure incurred for the improvement/rehabilitation of the Schools in the District before the Director of School Education as and when such works are completed by utilising the money as ordered by this Court.

-sd/-

30/06/2021

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 DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, MADHAVARAM.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
M-1, MADHAVARAM POLICE STATION.

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI.

6 THE CHIEF EDUCATIONAL OFFICER,
THIRUVALLUR DISTRICT.

CC to M/S.R.THIRUMOORTHY Advocate on payment of necessary charges

CRL OP.11229/2021

Date :30/06/2021