



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Cr1.O.P.No.20118 of 2021

Asraf Ali

... Petitioner

Vs.

State by : The Inspector of Police,
Sooramangalam Police Station,
Salem District.
(Crime No.606 of 2021)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C, prayed to grant bail to the petitioner in Crime No.606 of 2021 on the file of the respondent.

For Petitioner : Mr.S.Nadhiya

For Respondent : Mr.A.Gopinath
Government Advocate (Cr1 side)

ORDER

The petitioner, who was arrested on 24.09.2021 and remanded to judicial custody for the offences under Sections 273, 328, 511 of IPC and Section 57, 59 of Food Safety and Standards Act, 2006 and Section 77 The Juvenile Justice (Care and Protection of Children) Act 2015 and r/w Section 6 of Cigarette and other Tobacco Products Act, 2003 in Crime No.606 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the on 24.09.2021 at about 8.30 a.m, when the respondent police was on regular raid near Sooramangalam Junction Road, on seeing them, one boy aged about 17 years was trying to escape from the place and the boy was caught hold by the police. During the enquiry, the boy was found in possession of one Hans pocket. Based on the confession of the boy, the respondent police rushed to the spot and they found that the petitioner along with other accused were in illegal possession of 55 and 45 pockets of Shambu Tobacco banned tobacco products respectively worth about Rs.16,800/-. Hence, the complaint.



3. The learned counsel for the petitioner submits that the petitioner is no way connected with the alleged offence and he has been falsely implicated in this case and the petitioner has been in jail from 24.09.2021. However, on instructions, the learned counsel further submits that the petitioner, without prejudice his rights, on his own volition, is ready to deposit an amount of Rs.20,000/- for the purpose of improving and maintaining the Government Schools. Therefore, he prays to grant bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent submits that there is one previous cases pending against the petitioner. However, he vehemently opposed for grant of bail to the petitioner.

5. Considering the period of incarceration suffered by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions:

6. Accordingly, the petitioner is ordered to be released on bail on his executing 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 Court -III, Salem and on further condition that:

(a) the petitioner shall make a non-refundable deposit of Rs.20,000/- (Rupees Twenty thousand only) to the credit of the Chief Educational Officer, Salem District for the rehabilitation and improvement of the basic needs of the Government Schools in the said District under necessary acknowledgement, without prejudice to his 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 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;

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

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

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



(f) on breach of any of the aforesaid conditions, the learned 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]; and;

(g) 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 and works that were done for the improvement/rehabilitation of the schools in the District before the Commissioner of School Education as and when such works are completed by utilising the money as ordered by this Court.

-sd/-

27/10/2021

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 JUDICIAL MAGISTRATE,
NO.III, SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM DISTRICT. [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
SOORAMANGALAM POLICE STATION,
SALEM DISTRICT.



6 THE CHIEF EDUCATIONAL OFFICER,
SALEM DISTRICT.

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

CRL OP.20118/2021

Date :27/10/2021

RW 28/10/2021