

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.01.2021

CORAM :

THE HON'BLE Mr.JUSTICE V.BHARATHIDASAN

Crl.O.P.No.20863 of 2020

Gunasekar

... Petitioner

Vs.

State Rep. by
Inspector of Police,
Manali Police Station,
Chennai District.
(Crime No.2453 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.2453 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mr.S.P.Meenakshi Sundaram,

For Respondent : Mr.M.Prabavathy,
Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 09.12.2020 for the offence punishable under Section 7 and 20(1) of Cigarette and Other Tobacco Products Act, 2003 and Section 328 of IPC, in Crime No.2453 of 2020, seeks bail.

2. The case of the prosecution as per the *de facto* complainant is that on 08.12.2020, while the respondent police conducted search in the premises belongs to the first accused, the petitioner along with other accused were found in illegal possession of 868 Kg of Tobacco products worth about Rs.4,00,000/- and the same was seized by the respondent police. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case since he was working under the first accused. He would further submit that the petitioner is in judicial custody from 09.12.2020 and hence, he prays to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would vehemently oppose stating that there are totally three accused in this case and at that time of seizure, the petitioner

was also present. He would submit that A3 in this case is still absconding.

5. Taking into consideration the facts and circumstances of the case and that the entire contraband was seized from the premises belongs to A1 and there is no specific overt act against the petitioner and also considering the period of incarceration suffered by the petitioner, 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, Tiruvottiur, 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, on his release from prison, shall report before the respondent police daily at 10.00.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;

(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.

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

-sd/-
04/01/2021

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,
THIRUVOTTIUR

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE JAILER, SUB JAIL,
PONNERI

5 THE INSPECTOR OF POLICE,
MANALI POLICE STATION,
CHENNAI DISTRICT.

+1 CC to M/S.S.P.MEENAKSHI SUNDARAM Advocate on payment of
necessary charges SR.NO.23

CRL OP.20863/2020

Date :04/01/2021

GKS:05/01/2021

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