



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2021

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Cr1.O.P.No.21358 of 2021

Guru

... petitioner/A1

Vs.

The State rep by
The Inspector of Police,
SIPCOT Police Station,
Hosur,
Krishnagiri District.
(Crime No:445 of 2021)

...Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to enlarge the petitioner on bail in Crime No.445 of 2021 pending investigation on the file of the respondent police.

For petitioner : Mr.R.Balaguru swamy

For Respondent : Mr.N.S.Suganthan
Government Advocate

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 24.10.2021 for the offences under Sections 328 of IPC r/w 7 and 20 (i) of COTPA Act 2003, in Crime No.445 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 24.10.2021, when the respondent police was on their regular patrol duty, the petitioner was found illegally transporting 180 Kgs. of tobacco products (banned by Tamilnadu Government) worth about Rs.72,000/- in a car. Hence the complaint.

3. The learned counsel for the petitioner would submit that the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case and that he has been suffering incarceration for more than 20 days from 24.10.2021. Hence, he prays for grant of bail to the petitioner.



4. The learned Government Advocate raised formal objection stating that there are two accused in this case and the petitioner is arrayed as A1. He would submit that A2 has already been released on bail by the lower Court and the investigation is almost completed and that there is no previous case against the petitioner. Further he would submit that the properties have been seized from the accused.

5. In order to curb the illegal activities and considering the submission made by the learned counsel for the petitioner, this Court is of the opinion that the petitioner shall be directed to make a non refundable deposit of Rs.15,000/- (Rupees Fifteen Thousand Only), to the credit of the Registered Advocates Clerks Association, Salem, without prejudice to his rights and contentions. The amount so deposited shall be utilised by the Association for the welfare of the Advocates.

6. It is made clear that the deposit of the amount by the petitioner to the said Association would not amount to admission of guilt. The trial Court shall deal with the case independently on merits without reference to the amount deposited at the stage of bail.

7. Considering the period of incarceration undergone by the petitioner and the investigation is almost completed and there is no previous case against the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

8. 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 II, Hosur, and on further conditions that:

(a) the petitioner shall make non-refundable deposit a sum of Rs.15,000/- (Rupees Fifteen Thousand Only) through demand draft to the Registered Advocates Clerks Association, Salem, 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 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 every Monday and Friday 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.

-sd/-

16/11/2021

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.II, HOSUR.

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
SIPCOT POLICE STATION,
HOSUR, KRISHNAGIRI DISTRICT.

4 THE OFFICER INCHARGE,
SUB JAIL, KRISHNAGIRI.

5 THE REGISTERED ADVOCATES
CLERKS ASSOCIATION, SALEM.

6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

CRL OP.21358/2021

Date :16/11/2021

CSK 17/11/2021

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