



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2021

CORAM:

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

CrI.O.P.No.21614 of 2021

Vijaykumar

... petitioner

Vs.

STATE: rep. by
The Inspector of Police
KONGANAPURAM Police Station
SALEM District
(Crime No.400 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.400 of 2021 on the file of the Inspector of Police, KONGANAPURAM Police Station, SALEM District.

For petitioner : Mr.B.Vasudevan

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

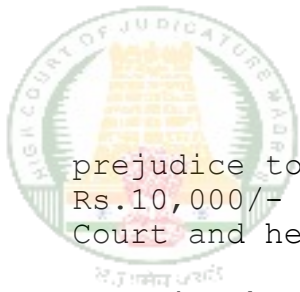
ORDER

(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 IPC r/w Section 24 (1) of Cigarette and other Tobacco Products Act, 2003 in Crime No.400 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 24.10.2021 at about 12.00 hours, near Moolakkadai Kaliyamman Temple, the petitioner was found in illegal possession of 145 packets of banned tobacco products in 3 bags, worth Rs.15,000/-. 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. However, on instructions, he would submit that the petitioner without



prejudice to his rights, on his own volition, is ready to pay a sum of Rs.10,000/- to any Charitable institution as may be directed by this Court and he would pray for grant of bail to the petitioner.

4. The learned Government Advocate raised objection stating that the petitioner was found in illegal possession of 16.4 kgs. (145 packets) of banned tobacco products in 3 bags which is worth about Rs.15,000/-.

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.10,000/- (Rupees Ten Thousand Only), to the credit of the Registered Advocates Clerks Association, Salem District, 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, 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 District Munsif cum Judicial Magistrate, Edapaddy, and on further conditions that:

(a) the petitioner shall make non-refundable deposit a sum of Rs.10,000/- (Rupees Ten Thousand Only) through demand draft to the Registered Advocates Clerks Association, Salem District, 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 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.

-sd/-

18/11/2021

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 DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, EDAPADY.

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

3 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

4 THE INSPECTOR OF POLICE,
KONGANAPURAM POLICE STATION,
SALEM DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE REGISTERED ADVOCATES
CLERKS ASSOCIATION, SALEM DISTRICT.

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

CRL OP.21614/2021

Date :18/11/2021

RW 18/11/2021