



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2021

CORAM:

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

Cr1.O.P.No.24483 of 2021

1.SIVAKUMAR
2.RAJESHKANNAN

...Petitioners

Vs.

State rep by its
The Inspector of Police
Mettur Police Station,
Mettur,
Salem District.
Crime No.265 of 2021.

...Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to enlarge the petitioners on bail in Crime No.265 of 2021 on the file of the Inspector of Police, Mettur Police Station, Mettur, Salem District.

For Petitioners : Mr. M.Senthil Kumar

For Respondent : Mr.N.S.Suganthan
Government Advocate (Cr1. Side)

ORDER

(The case has been heard through video conference)

The petitioners who were arrested and remanded to judicial custody on 12.11.2021 for the offences under **Sections 20(2) of Cigarette and other Tobacco Products Acts 2003 and Sections 273 and 328 of IPC**, in Crime No.265 of 2021, on the file of the respondent police, seek bail.

2. The case of the prosecution is that on 12.11.2021 at about 8.30 a.m., when the respondent police officials were conducting raid on the Salem to Mettur Road, near M.G.R. Bridge, the petitioners were found in illegal transportation of 104 bundles of banned tobacco products in two two wheelers. Hence, the complaint.



3.The learned counsel for the petitioners would submit that the petitioners have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case. He would further submit that this is the second application for bail and the earlier application was dismissed by this Court in Crl.O.P.No.22274 of 2021 dated 24.11.2021 and that the petitioners have been suffering incarceration for about 30 days from 12.11.2021 and hence, he would pray for grant of bail to the petitioners. He would further submit that the petitioners are ready and willing to pay a substantial amount to any Charitable Institute as may be directed by this Court and he would pray for grant of bail to the petitioners.

4.The learned Government Advocate (Crl. Side) would raise strong objection stating that petitioners were found in illegal transportation of 104 bundles of banned tobacco products worth about Rs.2,16,360/- by using a Tempo Van but admits that the investigation is almost completed.

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 petitioners shall be directed to make a non refundable deposit of **Rs.30,000 /- each to the credit of the Little Hearts Rehabilitation Centre for the Persons with Mental Illness, C 456, Annai Perumayiammal Kalyana Mandabam, Saravanabhavan Nagar, Maniyanur, Salem-10, Mobile No.9500017716 / 9940617712 Account No.31063199342, State Bank of India, Uthandi Branch, IFSC Code:SBIN0011771**, without prejudice to their rights and contentions. The amount so deposited shall be utilised by the said Rehabilitation Centre_for treating the patients.

6. It is made clear that the deposit of the amount by the petitioners to the said Rehabilitation Centre 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 facts and circumstance of the case and also considering the period of incarceration undergone by the petitioners and that the investigation is almost completed, this Court is inclined to grant bail to the petitioners with certain conditions.

8. Accordingly, the petitioners is ordered to be released on bail on their executing separate bonds 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-I, Mettur, Salem District**, and on further conditions that:



(a) the petitioners shall make non-refundable deposit a sum of **Rs.30,000/- each** through demand draft to the **Little Hearts Rehabilitation Centre for the Persons with Mental Illness, C 456, Annai Perumayiammal Kalyana Mandabam, Saravanabhavan Nagar, Maniyanur, Salem-10, Mobile No.9500017716 / 9940617712 Account No.31063199342, State Bank of India, Uthandi Branch, IFSC Code:SBIN0011771**, without prejudice to their 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 petitioners shall report before the respondent police on every Tuesday and Sunday at 10.30 a.m, until further orders.

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

(e) the petitioners 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 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;

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

-sd/-

15/12/2021

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

WEB COPY

1 THE JUDICIAL MAGISTRATE,
NO.I, METTUR SALEM DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 STATE REP BY
INSPECTOR OF POLICE, METTUR POLICE STATION,
METTUR, SALEM DISTRICT. CR.NO. 265/2021.

5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

6 THE LITTLE HEARTS
REHABILITATION CENTRE FOR THE PERSONS WITH
MENTAL ILLNESS, C 456, ANNAI PERUMAYIAMMAL
KALYANA MANDABAM, SARAVANABHAVAN NAGAR,
MANIYANUR, SALEM-10,
MOBILE NO.9500017716 / 9940617712
ACCOUNT NO.31063199342,
STATE BANK OF INDIA,
UTHANDI BRANCH, IFSC CODE:SBIN0011771.

+1 CC to M/S.M.SENTHIL KUMAR Advocate on payment of necessary
charges SR.NO.14808

CRL OP.24483/2021

Date :15/12/2021

TA-15/12/2021