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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2022

CORAM:

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

CrI.O.P.No.2157 of 2022

Deepaknuniya

...Petitioner

Vs.

The State rep by
The Inspector of Police,
Pallikonda Police Station,
Vellore District.
(Crime No.369 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.369 of 2021 on the file of the Respondent police.

For Petitioner : Mr.S.Raja Ravi Varma

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

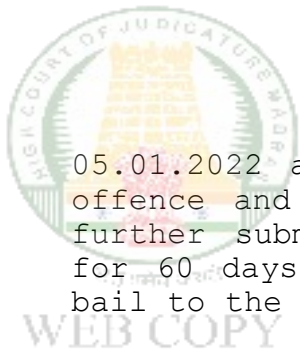
O R D E R

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 05.12.2021 for the offences under Sections 7(5) & 20 (2) of Cigarette and other Tobacco Products Acts 2003 r/w 328 of IPC, in Crime No.369 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 05.12.2021 at about 4.30 p.m., when the respondent police officials were on regular patrol duty, the petitioner along with other accused was found illegally transporting banned tobacco products weighting 277 kgs., worth about Rs.1,98,000/- from Karnataka. Hence, the complaint.

3.The learned counsel for the petitioner would submit that this is the second application for bail and the earlier application was dismissed by this Court in CrI.O.P.No.24950 of 2021 by order dated



05.01.2022 and the petitioner is no way connected with the alleged offence and he has been falsely implicated in this case. He would further submit that the petitioner has been suffering incarceration for 60 days from 05.12.2021 and hence, he would pray for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) would raise objection stating that the petitioner is arrayed as A3 and that A1 and A2 have been detained under Goondas but admits that there is no previous case against the petitioner and the investigation is almost completed.

5. In order to curb 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.50,000/- (Rupees Fifty Thousand Only), to the credit of Cancer Institute (WIA) (Regional Cancer Centre), Adyar, Chennai - 600020, bearing A/c.No.149710011005477, Andhra Bank, Madhya Kailash Branch, without prejudice to his rights and contentions. The amount so deposited shall be utilised by the said Cancer Institute for the treating the patients.

6. It is made clear that the deposit of the amount by the petitioner to the said Institute 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 above facts and circumstances of the case and the fact that there is no previous case against the petitioner and the investigation is almost completed and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

(a) Accordingly, the petitioner is ordered to be released on bail on executing his own bond for a sum of Rs.10,000/- (Rupees ten thousand only), before the Superintendent of the concerned prison, in which the petitioner has been confined and thereafter on his release;

(b) the petitioner is directed to deposit a sum of Rs.50,000/- (Rupees Fifty Thousand Only) as non-refundable deposit through RTGS/NEFT/Demand Draft in favour of the Cancer Institute (WIA) (Regional Cancer Centre), Adyar, Chennai - 600020, bearing A/c.No.149710011005477, Andhra Bank, Madhya Kailash Branch and on such deposit, the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, before the Learned Judicial Magistrate-V, Vellore, Vellore District, within 15 days from the date of commencement of the Court's normal functioning, failing which the bail granted by this Court shall stand dismissed automatically;



(c) 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;

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(d) the petitioner shall report before the respondent police on every Wednesday at 10.30 a.m. until further orders.

(e) the petitioner shall not commit any offences of similar nature;

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

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

(h) 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];

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

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

-sd/-
02/02/2022

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.



1 THE JUDICIAL MAGISTRATE,
NO.V, VELLORE,
VELLORE DISTRICT.

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

3 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE,
VELLORE DISTRICT.

4 THE INSPECTOR OF POLICE,
PALLIKONDA POLICE STATION,
VELLORE DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE CANCER INSTITUTE (WIA)
(REGIONAL CANCER CENTRE), ADYAR,
CHENNAI - 600020,
BEARING A/C.NO.149710011005477,
ANDHRA BANK,
MADHYA KAILASH BRANCH

+1 CC to M/S. M.SATHISH KUMAR Advocate on payment of necessary
charges SR.NO.1710

CRL OP.2157/2022

Date :02/02/2022

RW 03/02/2022