



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Cr1.O.P. No.2013 of 2022

Jananayagan

... Petitioner / A-2

versus

The State Rep. by
The Inspector of Police,
Deevattipatti Police Station,
Salem District.
(Crime No.798 of 2021)

... Respondent / Complainant

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C., praying to enlarge the petitioner on bail pending investigation in Crime No.798 of 2021 on the file of the respondent police.

For Petitioner : Mr.D.Balaji

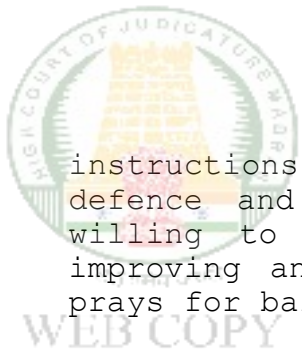
For Respondent : Mrs.G.V.Kasthuri
Additional Public Prosecutor

O R D E R

The petitioner, who was arrested and remanded to judicial custody on 04.12.2021 for the offences punishable under Sections 7, 20(1) of Cigarette and Other Tobacco Products Act, 2003, Sections 273 and 328 of IPC r/w Sections 52, 59 of Food Safety and Standards Act, 2006 in Crime No.798 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 04.12.2021, the petitioner along with other accused were illegally transporting of banned tobacco products viz. 5000 packets of Ganesh Tobacco products, 2000 packets of Vimal Gudka products, 1500 packets of Cool Lip Tobacco products and 2000 packets of A-1 Jartha Tobacco products in Eicher Lorry bearing Registration No.TN-29-BL-4192. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that the petitioner is in judicial custody from 04.12.2021 onwards. On



instructions, he further submits that without prejudice to his defence and contentions, the petitioner on his own volition, is willing to contribute a sum of Rs.10,000/- for the purpose of improving and maintaining the Government Schools. Accordingly, he prays for bail.

4. The learned Additional Public Prosecutor appearing for the respondent police raised objection stating that investigation is pending. However, she fairly admits that, the contraband, which was possessed by the petitioner, are all recovered by the Investigation Officer at the time of securing the petitioner.

5. Considered the submissions made by the learned counsel appearing on either side. The respondent police registered a case as against the petitioner for the offences punishable under Sections 7, 20(1) of Cigarette and Other Tobacco Products Act, 2003, Sections 273 and 328 of IPC r/w Sections 52, 59 of Food Safety and Standards Act, 2006 and as of now, the material objects (contraband), which is necessary for completing the investigation, are all recovered by the respondent police. Since the present case has been registered for the above said offence, being the reason that the contraband has also been recovered, further custody of the petitioner is not necessary.

6. Therefore, taking note of the above said aspects into consideration and having regard to the nature of offence committed by the petitioner and also the fact that the petitioner has willfully and on his own volition agreed to contribute a sum of Rs.10,000/- for charitable purpose, this Court is inclined to grant bail to the petitioner subject to certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail subject to the following conditions;

(a) the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, Omalur;

(b) the petitioner shall make a non-refundable deposit of Rs.10,000/- to the credit of "The Chief Educational Officer, Salem, for the rehabilitation and improvement of the basic needs of the Government Schools in the said District under necessary acknowledgment without prejudice to his defence before the trial court and submit proof of payment of the said amount before the aforesaid learned Judicial Magistrate, who after perusing the receipt/acknowledgment shall accept the sureties furnished by the petitioner ;

(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;



(d) the petitioner is directed to appear before the respondent police daily at 10.00 a.m. until further orders;

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

(f) 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];

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

8. In the result, this Criminal Original Petition is ordered and the Chief Educational Officer, shall submit the necessary proof with regard to the expenditure incurred for the improvement/rehabilitation of the Schools in the District before the Director of School Education as and when such works are completed by utilising the money as ordered by this Court.

-sd/-

25/02/2022

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.

TO

1 THE JUDICIAL MAGISTRATE,
OMALUR

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM(FOR INFORMATION)

3 THE INSPECTOR OF POLICE,
DEEVATTIPATTI POLICE STATION,
SALEM DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.



5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

6 THE CHIEF EDUCATIONAL OFFICER
SALEM

CC to M/S. D.BALAJI Advocate on payment of necessary charges
Sr.3009

CRL OP.2013/2022

Date :25/02/2022

RVR 28/02/2022