



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.12.2021

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.25954 of 2021

Sakthi

... Petitioner

Versus

State Represented by
Inspector of Police,
Town Police Station,
Thiruvannamalai,
(Crime No.1229 of 2021)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail pending investigation in Crime No.1229 of 2021 on the file of the Inspector of Police, Town Police Station, Thiruvannamalai.

For Petitioner : Mr.T.Shanmugam

For Respondent : Mr.S.Sugendran
Government Advocate (Crl.Side)

O R D E R

The petitioner who was arrested and remanded to judicial custody on 02.12.2021 for the offences publishable under Sections 273, 328 r/w 511 IPC and Section 24(1) of COTPA Act, in Crime No.1229 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 02.12.2021 at about 04.00 p.m., when the respondent police officials were on their regular patrol duty near Meenakshi Theatre at Tiruvannamalai, the petitioner along with other accused was found in possession of 3 kgs. of banned tobacco products viz., cool lips, 2-big packets of Pan masala, 60-packets of scented tobacco products. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner in no way connected with the alleged offence and he has been falsely implicated in this case. Even as per the prosecution, the petitioner only drove the vehicle in which, the pillion rider/A2 was found in possession of alleged banned contraband and that there is no specific overt-act as against the petitioner. He would further submit that the petitioner has been suffering incarceration for more than 25 days from 02.12.2021. Hence, he would pray for grant of bail to the petitioner.



4. The learned Government Advocate (Crl. Side) appearing for the respondent raised strong objection stating that the petitioner along with other accused was found in possession of 3 kgs. of banned tobacco products in a motor cycle but admits that the contraband was seized from A2 who was a pillion rider and that the petitioner/A1 is the rider of the motorcycle.

5. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent police and perused the materials placed on record.

6. It is seen that the petitioner was arrested on 02.12.2021 and he has been in judicial custody for more than 25 days. However, the prosecution is unable to say if there is any specific overt act against the petitioner/A1 and whether, he was consciously aided the other accused/A2 to transport the contraband.

7. Considering the above facts and circumstances of the case and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner subject to the following conditions;

8. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.1,00,000/- (Rupees One Lakhs Only) with two sureties, each for a like sum to the satisfaction of the Learned Judicial Magistrate-I, Thiruvannamalai, and on further conditions that:-

(a) 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;

(b) the petitioner shall report before the respondent police daily at 10 a.m. and 5 p.m. until further orders.

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

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

(e) 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;



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

-sd/-

29/12/2021

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

1 THE JUDICIAL MAGISTRATE,
NO.I, THIRUVANNAMALAI

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVANNAMALAI (FOR INFORMATION)

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 INSPECTOR OF POLICE,
TOWN POLICE STATION,
TIRUVANNAMALAI.

6 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE

CC to M/S. T.SHANMUGAM Advocate on payment of necessary charges
Sr.15628

CRL OP.25954/2021

Date :29/12/2021

RVR 29/12/2021