



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2022

CORAM:

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

Cr1.O.P.No.928 of 2022

K. Mohamed Shikandar

... Petitioner

Vs.

The State, Represented by:
The Inspector of Police,
P-5, M.K.B Nagar Police Station,
Chennai
Crime No.1398 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 Cr.No.1398 of 2021 on the file of the respondent police.

For petitioner : Mr.R.Karthikeyan

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

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 07.12.2021 for the offences under Sections 273, 328 of I.P.C r/w Section 24(1) of COTPA Act 2003, in Crime No.1398 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner is running MD Kitchen T-shop and on 07.12.2021 at about 14.00 hrs, when the respondent police on their regular patrol duty intercepted the T-shop of the petitioner and found that the petitioner is in possession of illegal banned tobacco products. 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. He would further submit that the petitioner has been suffering incarceration for more than 33 days from 07.12.2021. He would further submit that the petitioner on this own volition ready



to deposit a substantial amount to any charitable institute as may be directed by this Court and would pray for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) would raise strong objection stating that totally 4 accused in this case and that the petitioner is arrayed as A1. He would further submit that the petitioner in his T-shop having illegal banned tobacco products of 134 Kg worth about Rs. 1.5 lakhs but admits that all the accused have been secured and also there is no previous case against the petitioner. He would further submit that the investigation is almost completed.

5. 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.20,000/- (Rupees Twenty Thousand Only), to the credit of the Tamil Nadu Advocate Clerks Association, Chennai, 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 facts and circumstances of the case and that the petitioner has no previous cases 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 have been confined and thereafter on his release;

(b) the petitioner shall make non-refundable deposit a sum of Rs.20,000/- (Rupees Twenty Thousand Only), through demand draft to the Tamil Nadu Advocate Clerks Association, Chennai, without prejudice to his defence before the trial Court and on such deposit, the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only), before the learned X Metropolitan Magistrate Court, Egmore, Chennai, 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;



WEB COPY

(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 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/-
12/01/2022

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 METROPOLITAN MAGISTRATE,
NO.X, EGMORE, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION].

3 THE INSPECTOR OF POLICE,
P-5, M.K.B. NAGAR POLICE STATION,
CHENNAI.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 TAMIL NADU ADVOCATE
CLERKS ASSOCIATION, CHENNAI.

CC to M/S. K.MADHAN Advocate on payment of necessary charges

CRL OP.928/2022

Date :12/01/2022

JPA 19/01/2022