



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2022

WEB COPY

CORAM:

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

Crl.O.P.No.971 of 2022

S.Syed Shabeer

...Petitioner/Accused

Vs.

The State represented by
The Inspector of Police,
Dharmapuri Police Station,
Dharmapuri District
(FIR.No.1692 of 2021)

... Respondent/Complainant

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to enlarge the petitioner/accused on bail in FIR No.1692 of 2021 on the file of the respondent police.

For petitioner : M/s.C.Palanisamy

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

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 29.12.2021 for the offences under Sections 328 IPC and Sec. 24(1) Cigarette and Other Tobacco Products Act-2003, in FIR No.1692 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 29.12.2021, on secret information the respondent police went to the spot and found that the petitioner was in possession of banned tobacco products like Hans, Cool Lip, Vimal Pan Masalas worth about Rs. 16,808/-. Hence, this case.

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 10 days from 29.12.2021. He



would further submit that the petitioner on his 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 the petitioner was in possession of banned tobacco products worth about Rs.17,000/- but admits 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.10,000/- (Rupees Ten Thousand Only) to the credit of the Registered Advocate Clerks Association, Dharmapuri, without prejudice to their 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 fact that 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 have been confined and thereafter on his release;

(b) the petitioner shall make non-refundable deposit a sum of Rs.10,000/- (Rupees Ten Thousand Only) through demand draft to the Registered Advocate Clerks Association, Dharmapuri, 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) each, before the learned Judicial Magistrate-I, Dharmapuri, 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;



(d) the petitioner shall report before the respondent police on every Tuesday and Saturday 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 JUDICIAL MAGISTRATE-I,
DHARMAPURI.

2 THE CHIEF JUDICIAL MAGISTRATE
DHARMAPURI DISTRICT [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
DHARMAPURI POLICE STATION,
DHARMAPURI DISTRICT.



4 THE REGISTERED
ADVOCATE CLERK ASSOCIATION,
DHARMAPURI.

5 THE OFFICE INCHARGE
SUB JAIL, DHARMAPURI.

6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S. C. PALANISAMY Advocate on payment of necessary
charges

CRL OP.971/2022

Date :12/01/2022

CSK 19/01/2022