



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

CrI.O.P.No.3046 of 2022

Thamemul Ansari

... Petitioner / Accused

versus

State rep. By:-
Inspector of Police,
D-1 Triplicane Police Station,
Chennai.
(Crime No.10 of 2022)

... 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.10 of 2022 on the file of the respondent police.

For Petitioner : Mr.S.Mohan Raj

For Respondent : Mrs.G.V.Kasthuri

Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 06.01.2022 for the offences punishable under **Sections 294 (b), 353, 328 of IPC and Sections 6, 24(1) of Cigarette and Other Tobacco Products Act, 2003 r/w 4(1)(a) of Tamil Nadu Prohibition Act** in Crime No.10 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 06.01.2022, the petitioner was found in possession of 5761 packets of banned tobacco products, cigarettes, liquor bottles and cash of Rs.12,650/-. Hence, the complaint.

3. The learned counsel for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that the other accused, who are all arrested in this case, are all enlarged on bail and as of now,



investigation has been completed and the petitioner is in judicial custody from 06.01.2022 onwards. Hence, 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 transported during the relevant of point, are all recovered by the Investigation Officer and as of now, the same is in the custody of the respondent police. She would further submit that the petitioner is the first offender and the other accused are all enlarged on bail.

5. The submissions made by the learned counsel appearing on either side are considered.

6. It seems that the respondent police registered a case as against the petitioner for the offences punishable under Sections 294 (b), 353, 328 of IPC and Sections 6, 24(1) of Cigarette and Other Tobacco Products Act, 2003 r/w 4(1)(a) of Tamil Nadu Prohibition Act and as of now, the material objects (contraband), which is necessary for completing the investigation are all recovered by the respondent police. Hence, the custodial interrogation of the petitioner may not be necessary for completing the investigation in this case. Further, the petitioner is the first offender and he is in judicial custody from 06.01.2022 onwards. Therefore, considering the nature of the offence, 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 II Metropolitan Magistrate, Egmore, Chennai - 600 008;

(b) 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;

(c) the petitioner is directed to appear before the respondent police daily at 10.00 a.m., for a period of 15 days and thereafter, as and when required for interrogation.

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



(e) 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];

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

-sd/-
16/02/2022

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 METROPOLITAN MAGISTRATE,
NO.II, EGMORE, CHENNAI-600 008.

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

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OFFPOLICE,
D-1, TRIPLICANE POLICE STATION,
CHENNAI.

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL JAIL, CHENNAI.

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

CRL OP.3046/2022

Date :16/02/2022

TA-17/02/2022