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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.02.2022

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

Cr1.O.P.No.3305 of 2022

Elango

...Petitioner

Vs.

The State rep. By
The Inspector of Police
Sankari Police Station,
Salem District.
(Crime No.326 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 Crime No. 326 of 2021 pending investigation on the file of the respondent.

For Petitioner : Mr.E.Kannadasan

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

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 273, 328 of I.P.C and 7 (1) and 20(2) of Cigarette and other Tobacco Products Act, 2003**, in Crime No.326 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 02.08.2021 at about 13.00 hrs., when the respondent police and his subordinates were in routine check up from Salem to Kovai NH by-pass at Kuppanoor Edapadi Road, the respondent police stopped a lorry bearing registration No.TN 18 AE 3606 and on search, they found that the petitioner was in possession of 12 bags of Hans containing 1150 packets totally 345 kg, 2 bags of Cool Lip containing 550 packets totally 66 kg, 15 bags of Vimal Pan Masala containing 3050 packets totally 300 kg. Hence, the complaint.



3.The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He further submitted that the petitioner being owner of the lorry which was used for the commission of offence, arrested by the respondent police based on the confession statement given by the other accused. It is his specific submission that the petitioner is under Judicial custody from 29.12.2021 onwards and as of now, a portion of investigation has been completed. Hence he prays for bail.

4.Ms.G.V.Kasthuri, learned Additional Public Prosecutor appearing for the respondent police raised objection stating that the investigation is pending. However, she admits that the other accused who involved in the alleged occurrence are all enlarged on bail. Further, a portion of investigation have been completed at present.

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

6. The respondent police registered a case against the petitioner for the offences punishable under Section 273, 328 of I.P.C and 7(1), 20(2) of Cigarette and other Tobacco Products Act, 2003. In the alleged occurrence, totally there are three persons are involved. The other two persons are the owner of the property and the driver of the vehicle. But the present petitioner is the owner of the vehicle, who was arrested based upon the confession statement given by the other accused. The averments found in the first information report does not show the overt act of the petitioner. Hence taking note of all the above said aspects into consideration and having regard to the period of incarceration, this Court is inclined to grant bail to the petitioner with certain conditions.

(a) the petitioner is ordered to be released on bail to 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 No.I, Sankari;**

(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 shall report before the respondent police daily at 10.00 a.m. until further orders;

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



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(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.

7. With the above directions, this Criminal Original Petition is ordered.

-sd/-

11/02/2022

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,
NO.I, SANKARI, SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
SANKARI POLICE STATION,
SALEM DISTRICT.

5 THE OFFICER INCHARGE
DISTRICT JAIL, DHARMAPURI.

+1 CC to M/S.E.KANNADASAN Advocate on payment of necessary charges SR.NO.2254

CRL OP.3305/2022

Date :11/02/2022

TA-14/02/2022