



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Cr1.O.P. No.4001 of 2022

Siva Kumar

...Petitioner/Accused

versus

State rep. by
The Inspector of Police
F-1 Chindatripet Police Station,
Chennai.
(Crime No.12 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.12 of 2022 on the file of the respondent police.

For Petitioner : Mr.Mohammed fazuluha

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

O R D E R

The petitioner, who was arrested and remanded to judicial custody on 22.01.2022 for an offence punishable under Sections 273, 269, 328 of IPC r/w. 7(1) & 20(1) of COTPA Act 2003, 52 & 59 of Food Safety and Standards Act 2006 in Crime No.12 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 22.01.2022, the petitioner was found in illegal possession of banned tobacco products viz. Royal King-12Kg, Swagath - 14Kg, Cool Lip-66Kg, Hans-123Kg, Vimal Panmasala-144Kg, Remo Pocket-44 Kg, V+tobacco-29Kg, ChainiKaini-12Kg, Win Cigarette-40 packet, Chandrika Beedi-25 Packets. 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 would further submit that the petitioner is in judicial custody from 22.01.2022 onwards. On instructions he further submits that without prejudice to his defence and contentions, the petitioner on his own volition, is willing to



contribute a sum of Rs.25,000/- for any rehabilitation centre. Accordingly, 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 petitioner is the first time offender and the contraband, which was possessed by the petitioner, are all recovered by the Investigation Officer at the time of securing the petitioner.

5. Considered the submissions made by the learned counsel appearing on either side. The respondent police registered a case against the petitioner for the offence punishable under Sections 273, 269, 328 of IPC r/w. 7(1) & 20(1) of COTPA Act 2003, 52 & 59 of Food Safety and Standards Act 2006 and as of now, the material objects (contraband), which is necessary for completing the investigation, are all recovered by the respondent police. Since the present case has been registered for the above said offence, being the reason that the contraband has also been recovered, further custody of the petitioner is not necessary.

6. Therefore, taking note of all the above said aspects into consideration and having regard to the nature of offence committed by the petitioner, who is a first time offender and also the fact that the property involved in the commission of offence, has been recovered and also that the petitioner has willfully and on his own volition agreed to contribute a sum of Rs.25,000/- for rehabilitation purpose, 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 XIV Metropolitan Magistrate, Egmore, Chennai;

(b) The petitioner shall make a non-refundable deposit of Rs.25,000/- [Rupees Twenty Five Thousand Only] to the credit of "Anbagam Rehabilitation Centre (for the Mentally ill Persons), Kulandaivel Nachammal Nagar, Thiunilai Village, Vichur, Ponneri Taluk, Thiruvallur [Contact No.044-29013306 / 9444009988], under necessary acknowledgment without prejudice to his defence before the trial court and submit proof of payment of the said amount before the aforesaid learned Judicial Magistrate, who after perusing the receipt/acknowledgment shall accept the sureties furnished by the petitioner ;



(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 is directed to appear before the respondent police at 10.00 a.m. for a period of 30 days;

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

(f) 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];

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

-sd/-

24/02/2022

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 XIV METROPOLITAN MAGISTRATE
EGMORE, CHENNAI

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE,
CHENNAI (FOR INFORMATION)

3 THE INSPECTOR OF POLICE,
F-1, CHINDATRIPET POLICE STATION,
CHENNAI

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE SUPERINTENDENT,
CENTRAL JAIL, PUZHAL,
CHENNAI



6 "ANBAGAM REHABILITATION CENTRE
(FOR THE MENTALLY ILL PERSONS),
KULANDAIVEL NACHAMMAL NAGAR, THIUNILAI VILLAGE,
VICHUR, PONNERI TALUK,
THIRUVALLUR [CONTACT NO.044-29013306 / 9444009988]

CC to M/S.MOHAMMED FAZULUHA Advocate on payment of necessary
charges Sr.2859

CRL OP.4001/2022

Date :24/02/2022

RVR 25/02/2022