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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2022

CORAM:

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

Crl.O.P.No.5451 of 2022

Shambulinga Nayaka

.. Petitioner

Vs.

State Rep.
Inspector of Police,
Sathiyamangalam Police Station,
Erode District.
(Crime No.08 of 2022)

...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.08 of 2022 on the file of the Inspector of Police, Sathiyamangalam Police Station, Erode District.

For Petitioner : Mr.C.D.Sugumar

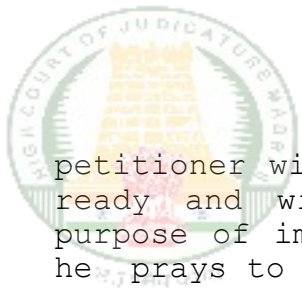
For Respondent : Mr.L.Baskaran
Government Advocate (Crl.Side)

ORDER

The petitioner who was arrested and remanded to judicial custody on 06.01.2022 for the offence under Sections 279, 328 of IPC and Section 7 and 20(1) of Cigarettes and Other Tobacco Products Act, 2003 and Section 52 and 59 of Food Safety and Standard Act, 2006 in Crime No.08 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that when the respondent police were on regular patrol, they found that the petitioner along with accused had involved in illegal transportation of contraband tobacco products by using Bolero Car. Hence the complaint.

3. The learned counsel for the petitioner submits that the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case and he has been suffering incarceration for more than 70 days from 06.01.2022. He further submits that the petitioner is the driver(A1) of the vehicle. However, on instructions, he submits that the



petitioner without prejudice to his rights, on his own volition, is ready and willing to contribute a sum of Rs.1,50,000/- for the purpose of improving and maintaining the Government Schools. Hence, he prays to grant bail to the petitioner.

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4. The learned Government Advocate (Crl. Side) submits that the petitioner along with another accused (A2) had involved in illegal transportation of contraband tobacco products worth about Rs.12,63,110/- by using Bolero Car. Hence, he vehemently opposed to grant bail to the petitioner. But, this petitioner has no previous case. With regard to A1, investigation almost completed, Vehicle and contraband were seized.

5. Considering the facts and circumstances of the case and the submissions made by both counsel and also considering the period of incarceration suffered by the petitioner and also the fact that the petitioner has willfully and on his own volition agreed to contribute a sum Rs.1,50,000/- for the purpose of improving and maintaining the Government Schools, this Court is inclined to grant bail to the petitioner with certain conditions.

6. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, Sathiyamanagalam, and on further condition that:

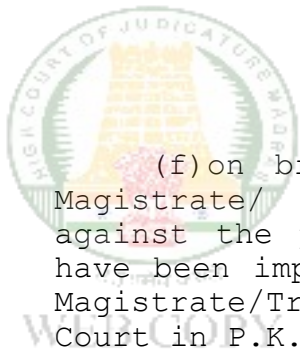
(a) the petitioner shall make a non-refundable deposit of Rs.1,50,000/- to the credit of " The Chief Educational Officer, Erode District, for the rehabilitation and improvement of the basic needs and infrastructure of the Government Girls' Schools in the said District under necessary acknowledgment without prejudice to their 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 ;

(b) the sureties shall affix their photographs and left thumb impression in the surety bond and the 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 on every Saturday at 10.30 a.m., until further orders ;

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

(e) the petitioner shall not abscond either during investigation or trial;



(f) on breach of any of the aforesaid conditions, the learned 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]; and;

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

6. . The Chief Educational Officer shall submit the necessary proof with regard to the expenditure incurred and works that were done for the improvement/rehabilitation of the schools in the District before the Director of School Education as and when such works are completed by utilising the money as ordered by this Court.

-sd/-

18/03/2022

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,
SATHIYAMANGALAM.

2 THE CHIEF JUDICIAL MAGISTRATE
ERODE [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
SATHIYAMANGALAM POLICE STATION,
ERODE DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

5 THE CHIEF EDUCATIONAL OFFICER,
ERODE DISTRICT.



6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1CC to M/S C.D.SUGUMAR Advocate on payment of necessary
charges SR.No.4195

CRL OP.5451/2022

Date :18/03/2022

CSK 21/03/2022