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Crl.OP.No.21458 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2022

CORAM

THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.OP.No.21458 of 2022

Abbas @ Pathi Abbas

... Petitioner

Vs.

State by :

The Inspector of Police,
Podhanur Police Station,
Coimbatore City.
(Cr. No.180/2022).

..Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to grant bail to the petitioner in Crime No.180 of 2022 on the file of
the respondent Police Station.

For Petitioner : Mr.Camyles Gandhi for
Mr.Deepanuday

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl.side)

ORDER

The petitioner, who was arrested and remanded to judicial custody
through prisoner transit warrant on 05.08.2022 for the offences punishable



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under Section 24(1) of Cigarette and other Tobacco Products Act, 2003 r/w Section 328 of IPC in Crime No.180 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner was found in possession of 10 kgs of banned tobacco products. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that the petitioner is in custody from 21.07.2022 and thereby, he seeks for grant of bail to the petitioner.

4. Per contra, the learned Government Advocate (Crl.side) appearing for the respondent would submit that the petitioner is a habitual offender involved in business of banned tobacco products. He would further submit that there are six previous cases as against the petitioner, out of six, four cases are similar in nature. Hence, he vehemently opposed to grant bail to the petitioner.



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5.In reply, the learned counsel for the petitioner would submit that the petitioner is in custody from 21.07.2022 and major part of the investigation is over. He would further submit that he is also ready to deposit an amount of Rs.25,000/- to any welfare scheme of the Government and prays for grant of anticipatory bail to the petitioner.

6.Merely, because the petitioner has deposited the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

7.Taking into consideration the facts of the case and the submissions made by the learned counsel and also taking note of the fact that the petitioner has come forward to deposit an amount of Rs.25,000/- to any welfare scheme of the Government, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8.Accordingly, the petitioner is directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) directly to the **Dean,**



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Government Coimbatore Medical College and Hospital, Coimbatore and

on receipt of proof of payment at the time of furnishing the two sureties before the learned Judicial Magistrate, Madukkarai, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties for a like sum to the satisfaction of the respondents police or the police officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and 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;

[b] the petitioner shall deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) directly to the **Dean, Government Medical College and Hospital, Coimbatore** to enable the Dean to use the aforesaid amount for the purpose of treating the alcohol influenced patients;

[c] the petitioner shall report before the Inspector of Police, Podhanur Police Station Coimbatore City every day morning at 10.30 a.m., until further orders;



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[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]**;

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC;

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A.D.JAGADISH CHANDIRA., J.

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To

- 1.The Judicial Magistrate VII,
Madukkarai.
- 2.The Inspector of Police,
Podhanur Police Station,
Coimbatore City.
- 3.The Central Prison,
Coimbatore.
4. The Public Prosecutor,
High Court of Madras.

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