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Crl.OP.No.21976 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2022

CORAM

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

Crl.O.P.No.21976 of 2022

Selvakumar

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Thally Police Station,
Krishnagiri District.

(Crime No.136/2022).

... Respondent

PRAYER: Criminal Original Petitions filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail pending investigation in connection
with the Crime No.136 of 2022 on the file of the respondent.

For Petitioner : Mr.P.M.Jayachandran

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



CrI.OP.No.21976 of 2022

WEB COPY

ORDER

The petitioner, who was arrested and remanded to judicial custody on 21.08.2022 for the offences punishable under Section 328 of IPC and Section 6 r/w Section 20(1) of Cigarette and other Tobacco Products Acts, 2003, in Crime No.136 of 2022 on the file of the respondent police, seek bail.

2. The case of the prosecution is that on 24.04.2022, while the respondent Police and his team were on routine rounds, the petitioner and the other accused were found in possession of one and half ton of banned tobacco products, worth about Rs.8,75,000/-. Hence the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he is the owner of the vehicle. He would further submit that the driver of the vehicle has used the vehicle for illegal transportation without the petitioner's knowledge, due to which the petitioner has been implicated in this case. He would also submit that without prejudice, the petitioner are prepared to deposit some considerable



Crl.OP.No.21976 of 2022

amount to any welfare scheme of the Government and hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent police submitted that on 24.04.2022, when the respondent Police and his team were on routine rounds, the petitioner was found in possession of one and half ton of banned tobacco products, worth about Rs.8,75,000/-. Hence, he vehemently opposed for grant of bail to the petitioner.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent and perused the materials available on record.

6. In order to curb the illegal activities of smuggling of tobacco products, this Court is of the opinion that the petitioner shall deposit a sum of Rs.1,00,000/- (Rupees One lakh only) as non refundable deposit to "The Dean/Medical Officer, Government Medical College and Hospital, Dharmapuri District" without prejudice to his rights and contentions before the trial Court.



CrI.OP.No.21976 of 2022

WEB COPY

7. Merely, because the petitioner deposits 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.

8. 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 prepared to deposit Rs.1,00,000/- to any welfare scheme of the Government, this Court is inclined to grant bail to the petitioner with certain conditions.

9. Accordingly, the petitioner is ordered to be released on bail on condition to make a non refundable deposit of **Rs.1,00,000/- (Rupees One Lakh only) by way of Demand Draft/RTGS/NEFT to the credit of the Dean, Government Medical College and Hospital, Dharmapuri District"** without prejudice to his rights and contentions before the trial Court, on such deposit and production of proof, the petitioner is ordered to be released on bail on his executing a bond each for a sum of **Rs.25,000/-**



Crl.OP.No.21976 of 2022

(Rupees Twenty Five thousand only) with **two sureties**, for a like sum to the satisfaction of the **learned Judicial Magistrate, Denkanikottai** and on further conditions that:

[a] 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 report before the respondent Police daily at 10.30 a.m., until further orders;

[c] the petitioner shall not abscond either during investigation or trial;

[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 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]**;



WEB COPY



Crl.OP.No.21976 of 2022

[f] If the accused thereafter abscond, a fresh FIR
can be registered under Section 229A IPC.

13.09.2022

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Crl.OP.No.21976 of 2022

WEB COPY

To

1. The Judicial Magistrate,
Denkanikottai
2. The Inspector of Police,
Thally Police Station,
Krishnagiri District.
3. The Sub Jail,
Hosur.
4. The Public Prosecutor,
High Court of Madras.



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Crl.OP.No.21976 of 2022

A.D.JAGADISH CHANDIRA.,J.

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Crl.O.P.No.21976 of 2022

13.09.2022