



Crl.O.P.No.24799 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2022

CORAM

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

Crl.O.P.No. 24799 of 2022

Ramesh

... Petitioner

Vs.

State Rep.by
The Inspector of Police,
R-4 Soundarapandian Angadi Police Station,
Pondy Bazaar, Chennai - 600 017.
Crime No.209 of 2022

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in the event of his arrest pending
investigation in Crime No.209 of 2022 on the file of the respondent.

For Petitioner : Mr.P.Sundar Rajan

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



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 31.08.2022, for the offences punishable under Section 328 of IPC r/w Section 6(a) of COTP Act, 2003, in Crime No.209 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 31.08.2022, while the respondent Police and his team were on routine rounds, the petitioner and the other accused were found in possession of banned tobacco products namely, 110 maava packets, 20 packets of RMD Pan masala, 30 packets of Hans tobacco and 5 packets of Cool lip tobacco. Hence the complaint.

3. The learned counsel appearing for the petitioner would submit that this is a third application for bail and the earlier applications for bail in Crl.O.P.Nos.22100 of 2022 and 23555 of 2022 were dismissed on 14.09.2022 and 27.09.2022 respectively. He would also submit that the petitioner has got 3 previous cases and he is in custody from 31.08.2022. He would also submit that without prejudice to his contentions, the petitioner is



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prepared to deposit a sum of Rs.15,000/- to any welfare scheme of the Government as the petitioner is only a petti shop keeper and hence, he prays for grant of bail to the petitioner.

4. The Government Advocate (Crl.Side) appearing for the respondent police would submit that on 31.08.2022, while the respondent Police and his team were on routine rounds, the petitioner and the other accused were found in possession of banned tobacco products namely, 110 maava packets, 20 packets of RMD Pan masala, 30 packets of Hans tobacco and 5 packets of Cool lip tobacco. He would further submit that there are 3 previous cases as against the petitioner. Therefore, he vehemently opposed to grant bail to the petitioner.

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

6. In order to curb the illegal activities of smuggling of tobacco



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products, this Court is of the opinion that the petitioner shall deposit a sum of **Rs.15,000/- (Rupees Fifteen Thousand only)** as a non refundable deposit to **"The Dean/Medical Officer, Rajiv Gandhi Government General Hospital, Chennai"**, without prejudice to his rights and contentions before the trial Court. Merely, because the petitioner have 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 is prepared to deposit **Rs.15,000/-** to any welfare scheme of the Government, this Court is inclined to grant bail to the petitioner with certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail on condition to make a non refundable deposit of **Rs.15,000/- (Rupees Fifteen Thousand only)** by way of Demand Draft/RTGS/NEFT to **"The Dean/Medical Officer, Rajiv Gandhi Government General Hospital,**



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Chennai", 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 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 XVII Metropolitan Magistrate, Saidapet, Chennai**, 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., and 05.30 p.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



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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 abscond, a fresh FIR
can be registered under Section 229A IPC.

13.10.2022

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To

1. The XVII Metropolitan Magistrate,
Saidapet, Chennai.
2. The Inspector of Police,
R-4 Soundarapandian Angadi Police Station,
Pondy Bazaar, Chennai - 600 017.
3. The Central Prison,
Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras.



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