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Crl.O.P.No.24424 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2022

CORAM

THE HON'BLE MR. JUSTICE **SATHI KUMAR SUKUMARA KURUP**

Crl.OP.No.24424 of 2022

Natesan,
S/o. Manickam

... Petitioner

Vs.

State rep. By,
The Inspector of Police,
Mayiladuthurai Police Station,
Mayiladuthurai.
(Crime No.701/2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the Petitioner on bail in Crime No.701 of 2022 pending
investigation on the file of the Respondent.

For Petitioner : Mr.U.Kathiravan

For Respondent : Mr.S.Raja Kumar
Additional Public Prosecutor



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 18.09.2022, for the offences punishable under Sections 328 I.P.C. Sec.6 & 24 (1) of Cigarette and Other Tobacco Products Act, 2003, in Crime No.701 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 18.09.2022, on a secret information, the respondent Police went to house of the petitioner, and found that he was selling 72 cool lip pockets, tobacco products, which was banned by the Government. Hence the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would also submit that without prejudice to his contentions, the petitioner is prepared to deposit a sum of Rs.5,000/- to any welfare scheme of the Government and hence, he prays for grant of bail to the petitioner.



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4. The Government Advocate (Crl.Side) appearing for the respondent police would submit that on 18.09.2022, on a secret information, the respondent Police went to the petitioner's house and found in possession of 72 cool lip pockets, tobacco products. He would further submit that there are no previous cases as against the petitioner. However, 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 products, this Court is of the opinion that the petitioner shall deposit a sum of **Rs.5,000/- (Rupees Five Thousand only)** as a non refundable deposit to **"Advocates Clerks Association, Mayiladuthurai"**, 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



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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.5,000/-** 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.5,000/- (Rupees Five Thousand only)** by way of Demand Draft/RTGS/NEFT to "**Advocates Clerks Association, Mayiladuthurai**", 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.10,000/- (Rupees ten thousand only)** with **two sureties**, one surety shall be a blood relative, each for a like sum to the satisfaction of the **learned Judicial Magistrate-I, Mayiladuthurai**, and on further conditions that:



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[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 10.00 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]*;

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

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1. The Judicial Magistrate-I, Mayiladuthurai.
2. The Inspector of Police,
Mayiladuthurai Police Station,
Mayiladuthurai.
3. The Superintendent,
Sub-Jail,
Mayiladuthurai.
4. The Public Prosecutor,
High Court of Madras.



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SATHI KUMAR SUKUMARA KURUP, J.

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