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CrI.O.P.No.24491 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2022

CORAM

THE HON'BLE MR. JUSTICE **SATHIKUMAR SUKUMARA KURUP**

CrI.O.P.No.24491 of 2022

Murugan

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Kondalampatty Police Station,
Salem District.
(Crime No.486 of 2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in Crime No.486 of 2022, on the file
of the Respondent Police.

For Petitioner : Mr.T.Muruganantham

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

ORDER

The Petitioner, who was arrested and remanded to judicial custody
on 21.09.2022 for the offences punishable under Sections 283, 328 of IPC



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read with Section 6 & 24(1) of Cigarette and Tobacco Act, 2003 in Crime No.486 of 2022 on the file of the Respondent Police, seeks bail.

2. The case of the prosecution is that based on the confession statement of the 1st accused, that the petitioner procured Tobacco products from one Lingaraj, the petitioner, and the other accused were arrested and also seized Hans 127 packets, Pan Masala 204 packets and Cool Lip 47 packets from the shop of the 1st accused. 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.

4. The learned Additional Public Prosecutor appearing for the Respondent police would submit that based on the confession statement of the 1st accused, that the petitioner and the other accused were arrested and



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also seized Hans 127 packets, Pan Masala 204 packets and Cool Lip 47 packets from the shop of the 1st accused. However, he would submit that there are no previous case pending against the Petitioner. However, he vehemently opposed to grant bail to the Petitioner.

5. Heard the learned counsel for the Petitioner and the learned Additional Public Prosecutor and perused the materials available on record including the First Information Report.

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 by way of Demand Draft/RTGS/NEFT to "**The Advocates Clerks Association, Salem District**", 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.



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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)** as a non refundable deposit by way of Demand Draft/RTGS/NEFT to "**The Advocates Clerks Association, Salem 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 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 Judicial Magistrate-5, Salem**, and on further conditions that:

[a] the sureties shall affix their photographs and
Left Thumb Impression in the surety bond and the



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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]*;

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

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To

1. The Judicial Magistrate-5, Salem.
2. The Inspector of Police,
Kondalampatty Police Station,
Salem District.
3. The Superintendent,
Central Prison,
Salem.
4. The Public Prosecutor,
High Court of Madras.



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SATHIKUMAR SUKUMARA KURUP,J.,

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