



Crl.O.P.No.25266 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2022

CORAM

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

Crl.O.P.No.25266 of 2022

Sivabalan

... Petitioner

Vs.

State represented by,
The Inspector of Police,
Vazhapadi Police Station,
Salem District.
(Crime No.502 of 2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the Petitioner on bail in connection with the case in Crime
No.502 of 2022 pending investigation on the file of the Respondent police.

For Petitioner : Mr.S.Premakumari

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 15.09.2022, for the offences punishable under Sections 273, 328 of IPC and Section 7(1), 20(2) of the Cigarette and other Tobacco Products Act, 2003, in Crime No.502 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on receipt of a secret information, when the respondent police conducted search, the petitioner was found in illegal possession of 705 Kgs of banned tobacco products worth about Rs.4,07,700/-. 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. She would also submit that the petitioner is in custody from 15.09.2022. She would further submit that without prejudice to his contentions, the petitioner is prepared to deposit a sum of Rs.2,00,000/- to



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any welfare scheme of the Government 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 receipt of a secret information, when the respondent police conducted search, the petitioner was found in illegal possession of 705 Kgs of banned tobacco products worth about Rs.4,07,700/-. He would further submit that there is one previous case of similar nature registered in Crime No.81 of 2022 before the respondent Police, 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



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Rs.2,00,000/- (Rupees Two Lakhs only) as a non refundable deposit to **"The Dean/Medical Officer, Government Mohan Kumaramangalam Medical College Hospital, 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.

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.2,00,000/-** 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.2,00,000/- (Rupees Two Lakhs only)** by way of Demand Draft/RTGS/NEFT to **"The Dean/Medical Officer, Government Mohan Kumaramangalam Medical College Hospital, Salem District"**, without prejudice to his rights and



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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 District Munsif cum Judicial Magistrate, Valapady, Salem District**, 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



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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.

18.10.2022

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To

1. The District Munsif cum Judicial Magistrate,
Valapady, Salem District.
2. The Inspector of Police,
Vazhapadi Police Station,
Salem District.
3. The District Jail, Attur.
4. The Public Prosecutor,
High Court of Madras.



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