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Crl.O.P.No.25598 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2022

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

Crl.O.P.No.25598 of 2022

Surilirajan

... Petitioner

Vs.

The State Represented by,
The Inspector of Police,
Thirumanur Police Station,
Ariyalur District.

(Crime No.165/2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail pending investigation in Crime No.165
of 2022 on the file of the respondent police.

For Petitioner : Mr.R.Gokulakrishnan

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 25.09.2022 for the offences punishable under Section 328 of IPC and Section 6, 9(ii) of Tamil Nadu Prohibition of Smoking and Spitting Act, 2003 r/w Section 24(1) of Cigarettes and other Tobacco Products Act, 2003, in Crime No.165 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner along with the other accused were found in possession of 901 kilograms of banned tobacco products worth about Rs.10, 00,000/-. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner, who is the owner of the petty shop, is an innocent person and a false complaint has been registered as against the petitioner. He would also submit that even as per the prosecution, an amount of Rs.4,00,000/- is stated to have been recovered from the accused. He would also submit that the co-accused has been granted with bail by this Court in Crl.O.P.No.24684 of 2022 dated 14.10.2022. Therefore, he prays for grant of bail to the petitioner.



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4. The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that the petitioner, who was arrayed as A6 in this case, along with the other accused were found in possession of 901 kilograms of banned tobacco products worth about Rs.10,00,000/-. He would further submit that a sum of Rs.4,00,000/- has been recovered at the time of the registration of the case. Hence, he vehemently oppose for grant of bail to the petitioner.

5. At this juncture, learned counsel appearing for the petitioner would submit that without prejudice to his contentions, the petitioner is prepared to deposit a considerable amount as non-refundable deposit to any welfare scheme of the Government. Therefore, he prays for grant of bail to the petitioner.

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



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7. 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.30,000/- (Rupees Thirty thousand only) as a non refundable deposit to "The Dean/Medical Officer, Government District Headquarters Hospital, Ariyalur District", without prejudice to his rights and contentions before the trial Court.

8. Merely, because the petitioner has 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.

9. 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.30,000/- to any welfare scheme of the Government, this Court is inclined to grant bail to the petitioner with certain conditions.

10. Accordingly, the petitioner is ordered to be released on bail on



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condition to make a non refundable deposit of **Rs.30,000/- (Rupees Thirty thousand only)** by way of Demand Draft/RTGS/NEFT to "The Dean/Medical Officer, Government District Headquarters Hospital, Ariyalur 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 Court No.II, Ariyalur**, 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;



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[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.

19.10.2022

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To

1. The Judicial Magistrate, NoII, Ariyalur.
2. The Inspector of Police,
Thirumanur Police Station,
Ariyalur District.
3. The Sub Jail, Ariyalur.
4. The Public Prosecutor,
High Court of Madras.

A.D.JAGADISH CHANDIRA., J.



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