



CrI.O.P.No.26308 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2022

CORAM

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

CrI.O.P.No.26308 of 2022

Balamurugan

... Petitioner

Vs.

The State represented by,
The Sub Inspector of Police,
Thoppur Police Station
Dharmapuri, Tamil Nadu

(Crime No.252/2022).

... Respondent

PRAYER: Criminal Original Petitions filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail pending investigation in connection
with the Crime No.252 of 2022 on the file of the respondent.

For Petitioner : Mr.J.Stalin

For Respondent : Mr.C.E.Pratp
Government Advocate (CrI.Side)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 10.10.2022 for the offences punishable under Sections 328 of Indian Penal Code and read with Section 7 and 20(1) of Cigarette and other Tobacco Products Act, 2003 in Crime No.252 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner along with other accused were found in possession of banned tobacco products weighing 326.616 kgs worth about Rs.2.90 lakhs/-.. 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, the petitioner is prepared to deposit some considerable amount to any welfare scheme of the Government and hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent police submitted that, apart from this case, there is no previous



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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 Government Advocate (Crl.Side) for the respondent 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.1,00,000/- (Rupees One Lakh only) as non refundable deposit to "The Dean/Medical Officer, Government Medical College and Hospital, Dharmapuri District" without prejudice to his rights and contentions before the trial Court.

7. Merely, because the petitioner deposits 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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8. 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.1,00,000/- to any welfare scheme of the Government, this Court is inclined to grant bail to the petitioner with certain conditions.

9. Accordingly, the petitioner is ordered to be released on bail on condition to make a non refundable deposit of **Rs.1,00,000/- (Rupees One Lakh only) by way of Demand Draft/RTGS/NEFT to the Dean, Government Medical College and Hospital, Dharmapuri 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 each for a sum of **Rs.25,000/- (Rupees Twenty Five thousand only) with two sureties**, for a like sum to the satisfaction of the **learned Judicial Magistrate No.2, Dharmapuri** 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 10.30 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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A.D.JAGADISH CHANDIRA.,J.

Sma

To

1. The Judicial Magistrate - II,
Dharmapuri.
2. The Inspector of Police,
Thoppur Police Station
Dharmapuri, Tamil Nadu.
3. The District Jail,
Dharmapuri.
4. The Public Prosecutor,
High Court of Madras.

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