



CrI.O.P.No.26483 of 2022

A.D.JAGADISH CHANDIRA, J.,

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The petitioner, who apprehends arrest for the alleged offences under Section 328 of IPC and Section 6, 9(iv) of Tamil Nadu Prohibition of Smoking and Spitting Act 2003 and r/w.24(1) of the Cigarettes and other Tobacco Products Acts 2003 in Crime No.165 of 2022 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner was found to be in possession of 10bags of Hans Pocket, 15bags of Vimal Pocket and 2 bags of Cool lip of banned tobacco products. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person, a false case has been registered against him. He would also submit that the co-accused had been granted with bail by this Court in CrI.O.P.No.25598 of 2022 dated 19.10.2022. On instructions, he would further submit that the petitioner without prejudice to his defence, is prepared to make considerable donation to any charitable Organization or Association. Therefore, he prays for grant of anticipatory 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 A3 in this case, along with the other accused were found in possession of 10bags of Hans Pocket, 15bags of Vimal Pocket and 2 bags of Cool lip of banned tobacco products. No previous case is pending against the petitioner. Hence, he vehemently oppose for grant of bail to the petitioner.

5. In order to curb the illegal activities of smuggling Tobacco products, this Court is of the opinion that the petitioner shall deposit a sum of Rs.30,000/- (Rupees Thirty Thousand only) as non refundable deposit to "The Dean, Medical College, Ariyalur" without prejudice to his rights and contentions before the trial Court.

6. 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.

7. Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions :-

[a] the petitioner is directed to deposit a sum of Rs.30,000/- (Rupees Thirty Thousand only) as non-refundable deposit either through RTGS/NEFT or



in cash in favour of "The Dean, Medical College, Ariyalur" within fifteen (15) days from the date of receipt of a copy of this order. Thereafter, the petitioner is directed to be released on bail in the event of his arrest or on his appearance and on production of proof of payment of the above amount

[b] the petitioner shall execute 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned **Judicial Magistrate No.II, Ariyalur**, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:-

[c] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the respondent/police may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[d] the petitioner shall report before the respondent police daily at 10.30am until further orders.

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[f] the petitioner shall not abscond either during investigation or trial.

[g] 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 are 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]**.

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

8. With the above directions, this Criminal Original Petition is ordered.

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