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Crl.OP.No.26749 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2022

CORAM

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

Crl.OP.No.26749 of 2022

Mohammed Farzan

... Petitioner

Vs.

State rep by the Inspector of Police,
Pernambut Police Station,
Pernambut, Vellore District.
(Crime No.427 of 2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge petitioner on bail pending investigation in Crime No.427 of
2022 on the file of the Inspector of Police, Pernambut Police Station,
Pernambut, Vellore District.

For Petitioner : Mr.G.Vinodhkumar

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 10.10.2022 for the offences punishable under Sections 7(5) 20(2) of Cigarette and Other Tobacco Products Act 2003 and Section 328 of IPC, in Crime No.427 of 2022 on the file of respondent police, seeks bail.

2. The case of the prosecution is that on 10.10.2022, the petitioner was found to be in illegal possession of 7 kgs of banned tobacco products worth about Rs.10,000/-. Hence, the case.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has nothing to do with the alleged offence. He would submit that there is no previous case pending against the petitioner. However, without prejudice, the petitioner is prepared to deposit a sum of Rs.10,000/- towards any Welfare Scheme of the Government. 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 would submit that the petitioner was found to be in possession of 7 kgs of banned tobacco product worth about Rs.10,000/- and the contraband has been recovered from the petitioner . He would further submit that the petitioner has no previous case pending against him. However, he vehemently opposed to grant bail to the petitioner.

5. Heard both the learned counsel and perused the materials available on record including the First Information Report.

6. Taking into consideration of the facts and circumstances of the case and the submissions made by the learned counsel, and also taking note of the fact that the petitioner has come forward to deposit an amount of Rs.10,000/- to the any Welfare Scheme of the Government, this Court is inclined to grant bail to the petitioner with certain conditions. However, it is made clear that merely, because the petitioner deposits the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial



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Court to deal with the case independently.

7. Accordingly, the petitioner shall deposit a sum of **Rs.10,000/- (Rupees Ten Thousand only)** as non refundable deposit to the credit of the **Dean, Government Hospital, Adukkamparai, Vellore**, and on such deposit 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, Gudiyatham** 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



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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.

03.11.2022

shk

To

1. The learned Judicial Magistrate, Gudiyatham
2. The Inspector of Police,
Pernambut Police Station,
Pernambut, Vellore District.
3. The Central Prison,
Vellore.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA,J.

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