



CrI.O.P.No.28588 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2022

CORAM

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

CrI.O.P.No.28588 of 2022

Ganesh @ Ganesan

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
R-1, Mambalam Police Station,
Chennai.

(Crime No.220/2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in connection with the Crime No.220
of 2022 pending investigation on the file of the respondent Police.

For Petitioner : Mr.P.Sundararajan

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



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 15.10.2022 for the offences punishable under Section 24(1) of Cigarette and Other Tobacco Products Act r/w Section 328 of IPC, in Crime No.220 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 15.10.2022, on receipt of the secret information, the respondent police and their team conducted a search, wherein, the petitioner along with the other accused were found to be in illegal possession of 45 kilograms of banned tobacco products. In respect of A1, 30 kilograms and in respect of A2, 15 kilograms of banned tobacco products were seized by the respondent. Hence, the case.

3. Mr.P.Sundararajan, learned counsel appearing for the petitioner submitted that this is the second bail application before this Court and this Court had earlier dismissed the bail application filed by the petitioner in CrI.O.P.No.26785 of 2022 vide order dated 04.11.2022 on considering the



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bad antecedents of the petitioner. He further submitted that the petitioner is in custody from 15.10.2022, hence he prayed for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent submitted that the petitioner, who is arrayed as A1 in this case, along with accused were found to be in illegal possession of 45 kilograms of banned tobacco products for selling. He further submitted that the respondent have arrested the accused and seized about 30 kilograms of banned tobacco products from A1 and the balance 15 kilograms from the other accused. He also stated that as far as the present petitioner is concerned this is the second bail application and he is a habitual offender against whom 7 previous cases including 4 similar nature cases are pending. Hence, he vehemently opposed to grant bail to the petitioners.

5. At this juncture, the learned counsel for the petitioner submitted that without prejudice, the petitioner is prepared to make a deposit a sum of Rs.50,000/- as non-refundable deposit to any welfare scheme of the Government or to any shelter home and he is ready to abide by any stringent



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conditions that may be imposed by this Court. Hence, 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.

7. In order to curb the illegal activities of selling and transporting banned tobacco products, this Court is of the opinion that the petitioner shall deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only) as non refundable deposit to "**Light Social Welfare Trust**", without prejudice to his rights and contentions before the trial Court.

8. Merely, because the petitioner deposit the said amount, it 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 and circumstances of the case and the submissions made by the learned counsel and also taking note of



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the fact that the petitioner has prepared to deposit Rs.50,000/- 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 condition to make a non refundable deposit of **Rs.50,000/- (Rupees Fifty thousand only)** by way of **Demand Draft/RTGS/NEFT** to the **"Light Social Welfare Trust, Canara Bank, Arumuganeri Branch, A/c.No.1102101018391, IFSC Code : CNRB0001102"**, 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 XVII Metropolitan Magistrate, Saidapet, Chennai**, 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;



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[b] the petitioner shall report before the respondent Police daily at 10.30 a.m., until further orders;

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[d] the petitioner shall not abscond 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 absconds, a fresh FIR can be registered under Section 229A IPC;

22.11.2022

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To

1. The XVII Metropolitan Magistrate, Saidapet,
Chennai.
2. The Inspector of Police,
R-1, Mambalam Police Station,
Chennai.
3. The Central Prison,
Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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