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Crl.OP.No.27779 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2022

CORAM

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

Crl.OP.No.27779 of 2022

Rafideen

... Petitioner

Vs.

The State Represented by,
The Inspector of Police,
Mettupalayam Police Station,
In Crime No.829 of 2022
Coimbatore District.

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail pending investigation in Crime
No.829 of 2022 on the file of the respondent police.

For Petitioner : Mr.S.Bharanidharan

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 27.10.2022 for the offences punishable under Sections 24(1) of COTPA Act, 2003 r/w Section 328 of IPC in Crime No.829 of 2022 on the file of respondent police, seeks bail.

2. The case of the prosecution is that the petitioner was found to be in illegal possession of 74.600 Kgs of banned Tobacco products, worth about Rs.1,00,000/-. Hence, the case.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has nothing to do with the alleged offence. He would submit that the petitioner has no other case pending against him. However, without prejudice, the petitioner is prepared to deposit an amount of Rs. 50,000/- to the credit of any welfare Scheme of the Government. Therefore, he prays to grant 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 illegal possession of 74.600 Kgs of banned Tobacco products, worth about Rs.1,00,000/-. He would submit that there is no previous case pending against him. However, he vehemently opposed to grant bail to the petitioners.

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

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.50,000/-(Rupees Fifty thousand only)** as a non refundable deposit to credit of the **Medical Officer, Government Hospital, Mettupalayam,** without prejudice to his rights and contentions before the trial Court.

7. 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.



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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.50,000/- 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.50,000/- (Rupees Fifty thousand only)** to the credit of the **Medical Officer, Government Hospital, Mettupalayam**, 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 this 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, Mettupalayam** 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 every day at 10.30 am 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.

11.11.2022

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A.D.JAGADISH CHANDIRA,J.

shk

To

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

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