



CrI.O.P.No.28417 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2022

CORAM

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

CrI.O.P.No.28417 of 2022

Nargis @ Nagina

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Gudiyatham Town Police Station,
Vellore District.
(Crime No.463/2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in connection with the Crime No.463
of 2022 pending investigation on the file of the respondent Police.

For Petitioner : Mr.S.P.Arthi

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



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Crl.O.P.No.28417 of 2022

ORDER

The petitioner, who was arrested and remanded to judicial custody on 06.11.2022 for the offences punishable under Sections 7(5), 20(2) of Cigarette and other Tobacco Products Act, 2003 read with Section 328 of IPC in Crime No.463 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 112 kgs and 135 grams of banned tobacco products worth about Rs.1,90,000/-. Hence, the case.

3. Mrs.S.P.Arthi, learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. He further submitted that the petitioner is in custody from 06.11.2022, 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 along with other accused were found in possession of 112 kgs and 135 grams of banned tobacco products



CrI.O.P.No.28417 of 2022

worth about Rs.1,90,000/-. 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 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 (CrI.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



CrI.O.P.No.28417 of 2022

his rights and contentions before the trial Court.

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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 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 Judicial Magistrate, Gudiyatham, Vellore District**, 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 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]**;



CrI.O.P.No.28417 of 2022

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

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23.11.2022

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Crl.O.P.No.28417 of 2022

A.D.JAGADISH CHANDIRA.,J.

Sma

To

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

Crl.O.P.No.28417 of 2022

23.11.2022



Crl.O.P.No.28417 of 2022

Crl.O.P.No.28417 of 2022

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A.D.JAGADISH CHANDIRA, J.

This matter is posted today before this Court under the caption 'For Being Mentioned' at the instance of the learned counsel appearing for the petitioner.

2. The learned counsel appearing for the petitioner would submit that this Court, while granting bail to the petitioner has directed to make a non refundable deposit of Rs.50,000/- by way of Demand Draft/RTGS/NEFT to the "Light Social Welfare Trust". The learned counsel for the petitioner, without understanding the same had deposited the amount by way of cash and that the cash receipt was also produced before the Court concerned. However, the learned Magistrate had refused to accept the same and thereby, clarification is sought for.

3. Satisfied with the above submissions made by the learned counsel for the petitioner para no.10 of the order dated 23.11.2022 shall stand replaced with the following:-

*“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/Cash 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 Judicial Magistrate, Gudiyatham, Vellore District, and on further conditions that:"

4. Registry is directed to carry out the necessary correction in the order dated 23.11.2022 and issue a fresh copy of the order to the learned counsel for the parties.

25.11.2022

Anu

Note to office: Issue order copy today (i.e) on 25.11.2022



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CrI.O.P.No.28417 of 2022

A.D.JAGADISH CHANDIRA, J.

Anu

CrI.O.P.No.28417 of 2022

25.11.2022