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Crl.OP.No.28465 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2022

CORAM

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

Crl.OP.No.28465 of 2022

Nagaram

... Petitioner

Vs.

The Inspector of Police,
Kondalampatti Police Station,
Salem City,
Salem.

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in Crime No.447 of 2022 on the file
of the respondent police pending investigation.

For Petitioner : Mr.V.Sambamurthy

For Respondent : Mr.C.E.Pratap,
Government Advocate (crl.side),

ORDER



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The petitioner, who was arrested and remanded to judicial custody on 10.09.2022 for the offences punishable under Sections 273 and 328 of IPC and Section 6, 24(1) of COTPA Act, 2003 and Section 57, 59 food safety and standard act 2006 and Section 20(b) (ii) (B) of Narcotics drugs and psychotropic substances act 1985 in Crime No.447 of 2022 on the file of respondent police, seeks bail.

2. The case of the prosecution is that on 09.09.2022, the petitioner along with the other accused was found to be in illegal possession of 1.250 kgs of Ganja and 375 Kgs of Gutka worth about Rs.2,21,160/-. 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 is in custody from 10.09.2022. He would submit that the petitioner has no previous cases pending against him. 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 along with the other accused was found to be in illegal possession of 1.250 kgs of Ganja and 375 Kgs of Gutka worth about Rs.2,21,160/-. He would submit that there is no previous case pending against the petitioner. However, he vehemently opposed to grant bail to the petitioner since the quantity is huge.

5. At this juncture, learned counsel for the petitioner would submit that without prejudice, the petitioner is prepared to deposit a sum of Rs.25,000/- as a non refundable deposit to the credit of any welfare scheme of the Government.

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

7. 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.25,000/-(Rupees Twenty Five Thousand only)** as a non refundable deposit and to the credit of the **Medical Officer, Mohan**



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Kumaramangalam Government Hospital, Salem, without prejudice to his rights and contentions before the trial Court.

8. 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.

9. 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.25,000/- 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 that the **petitioner shall make a non refundable deposit of Rs.25,000/- (Rupees Twenty Five Thousand only)** to the credit of the **Medical Officer, Mohan Kumaramangalam Government Hospital, Salem,** without prejudice to his rights and contentions before the trial Court, on such deposit and production of proof, the petitioner is ordered to be



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released on bail on his executing a bond for a sum of **Rs.10,000/- (Rupees Ten thousand only)** with **two sureties, out of which, one surety should be a blood surety** each for a like sum to the satisfaction of the **Special Court (NDPS Cases), 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;

[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



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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.

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To

1. The Special Court (NDPS Cases), Chennai
2. The Inspector of Police,
Kondalampatti Police Station,
Salem City,
Salem.
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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