



Crl.O.P.No.28590 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2022

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

Crl.O.P.No.28590 of 2022

Kathiravan

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
V-1, Villivakkam Police Station,
Chennai.

(Crime No.344/2022)

... 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.344
of 2022 pending investigation on the file of the respondent Police.

For Petitioner : Mr.P.Shivaraj Mohan

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



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CrI.O.P.No.28590 of 2022

ORDER

The petitioner, who was arrested and remanded to judicial custody on 12.11.2022 for the offences punishable under Sections 328, 353 IPC r/w Section 24(1) of Cigarette and other Tobacco Products Acts, 2003, in Crime No.344 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that when the respondent police and their team were on their routine patrol duty, A1 illegally transported 28 kilograms of banned tobacco products in his car. Further, on his confession, the respondent arrested all the other accused and had seized about 261 kilograms of banned tobacco products and the sale proceeds of Rs.1,33,500/- from the present petitioner. Hence, the case.

3. 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 he has been arrested only based on the confession recorded from the first accused. He further submitted that the petitioner is in custody from 12.11.2022, hence he prayed for grant of bail to the petitioner.



Crl.O.P.No.28590 of 2022

WEB COPY

4. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the present petitioner who is arrayed as A5 was found to be in illegal possession of 261 kilograms of banned tobacco products for selling. He further submitted that there is no previous case as against the petitioner, however, he vehemently opposed to grant bail to the petitioner.

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.25,000/- 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 (Crl.Side) and perused the materials available on record.



CrI.O.P.No.28590 of 2022

WEB COPY

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.25,000/- (Rupees Twenty five 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 deposits 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 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.25,000/- 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.25,000/- (Rupees Twenty Five thousand only)** by way of **Demand Draft/RTGS/NEFT** to the **"Light**



CrI.O.P.No.28590 of 2022

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**

XIII Metropolitan Magistrate, Egmore, 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. and 5.30 p.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



CrI.O.P.No.28590 of 2022

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;

23.11.2022

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To

1. The XIII Metropolitan Magistrate,
Egmore.
2. The Inspector of Police,
V-1, Villivakkam Police Station,
Chennai .
3. The Central Prison,
Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras.



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Crl.O.P.No.28590 of 2022

A.D.JAGADISH CHANDIRA.,J.

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Crl.O.P.No.28590 of 2022

23.11.2022