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Crl.OP.No.28989 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2022

CORAM

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

Crl.OP.No.28989 of 2022

Nagesh Dewashi

... Petitioner

Vs.

State by:-

The Inspector of Police,

SIPCOT Police Station,

Krishnagiri District.

(Crime No.372 of 2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to grant bail to the petitioner pending investigation in Crime No.372
of 2022 on the file of the respondent police.

For Petitioner : Mr.P.M.Jayachandran

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 16.11.2022 for the offences punishable under Sections 328 IPC r/w 7 & 20(1) of COTPA Act 2003 in Crime No.372 of 2022 on the file of respondent police, seeks bail.

2. The case of the prosecution is that on secret information, the respondent police have made a search on all the vehicles nearby Bangalore to Hosur service road. During the search, the respondent police have intercepted one car bearing Registration No. TN 02 BJ 8386 where, the petitioner along with the other accused was found to be in possession of 299 Kgs of banned Tobacco products worth about Rs.2,56,200/-. 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 the driver of the car and he is neither the owner of the car nor the owner of the contraband. He



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would submit that the petitioner has no previous cases pending against him.

Therefore, he prays to grant bail to the petitioner.

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 299 Kgs of banned Tobacco products worth about Rs.2,56,200/-. He would submit that there is no previous case pending against the petitioner. However, he vehemently opposed to grant bail to the petitioner.

5. At this juncture, learned counsel for the petitioner would submit that without prejudice, the petitioner is prepared to deposit a sum of Rs.1,25,000/- 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.



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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.1,25,000/-(Rupees One Lakh Twenty Five Thousand only)** as a non refundable deposit and to the credit of the **Medical Officer, Government Hospital, Krishnagiri**, without prejudice to his rights and contentions before the trial Court.

8. Merely, because the petitioner has 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 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.1,25,000/- to any welfare scheme of the Government, this Court is inclined to grant bail to the petitioner with certain conditions.



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10. Accordingly, the petitioner is ordered to be released on bail on condition that the **petitioner shall make a non refundable deposit of Rs.1,25,000/- (Rupees One Lakh Twenty Five Thousand only)** to the credit of the **Medical Officer, Government Hospital, Krishnagiri** 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 No.II, Hosur** 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;



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[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.

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1. The learned Judicial Magistrate No.II, Hosur
- 2.The Inspector of Police,
SIPCOT Police Station,
Krishnagiri District.
3. The Sub Jail,
Krishnagiri.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA,J.

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