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Crl.O.P.No.8443 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2023

CORAM

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

Crl.O.P.No.8443 of 2023

Jahir Hussain

... Petitioner

Vs.

State rep. by
The Inspector of Police,
Ariyalur Police Station,
Ariyalur District.
Crime No.85 of 2023

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in Crime No.85 of 2023 on the file of
the respondent police.

For Petitioner : Mr.B.Mahendra Naidu

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

ORDER

The petitioner, who was arrested and remanded to judicial custody on 26.03.2023 for the offences punishable under Sections 272, 273, 328 IPC r/w Section 59 of FSS Act 2006, Sections 7(5), 20(2) of COTPA



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Act and Section 77 of Juvenile Justice Act 2015 in Crime No.85 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the accused was in illegal possession of banned tobacco products vis., 29 packets of Cool Lips each weighing about 99 grams, 27 packets of Vimal Pan Masala, each weighing about 84 grams, 30 packets of VI Tobacco Products each weighing about 120 grams. The respondent has arrested the accused and seized the contraband from him. 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 the petitioner is no way connected with the alleged offence, whereas, he was arrested on 26.03.2023 and he is in custody for more than 20 days. Hence, he prayed for grant of bail to the petitioner.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioner was found to be in illegal possession of 8.730 kgs of banned tobacco products. He further submitted



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that one previous case, similar in nature, is pending against the petitioner, however, he opposed for grant of bail to the petitioner.

5. At this juncture, the learned counsel for the petitioner submitted that the petitioner, without prejudice to his defense and contention, is ready and willing to deposit an amount of Rs.10,000/- to any welfare scheme run by the Government. He further stated that the petitioner is ready to abide by any stringent condition 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.

7. On considering the voluntary submission made by the learned counsel for the petitioner, the petitioner is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) to the credit of "The Dean/Medical Officer, Government District Head Quarters Hospital, Ariyalur", without prejudice to his rights and contentions before the trial Court.

8. Merely, because the petitioner has deposited the said amount, it



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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, the submissions made by the learned counsel on either side and taking note of the fact that the petitioner has come forward to deposit an amount of Rs.10,000/- to the credit of the "The Dean/Medical Officer, Government District Head Quarters Hospital, Ariyalur" and also considering the period of incarceration undergone by the petitioner, 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.10,000/- (Rupees Ten Thousand only) by way of **RTGS/NEFT to the credit of "The Dean/Medical Officer, Government District Head Quarters Hospital, Ariyalur"**, 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.10,000/- (Rupees Ten Thousand only)** with **two sureties** each for a like sum to the



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satisfaction of the **learned Judicial Magistrate No.I, Ariyalur**, 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, everyday at 10.30 a.m., 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]***;



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

19.04.2023

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To

1. The Judicial Magistrate No.I, Ariyalur.
2. The Inspector of Police,
Ariyalur Police Station,
Ariyalur District.
3. The Sub Jail, Ariylaur.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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