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Crl.O.P.No.9705 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2023

CORAM

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

Crl.O.P.No.9705 of 2023

Dinesh

... Petitioner

Vs.

State rep. by,
Inspector of Police
Mayiladuthurai Police Station,
Mayiladuthurai District.
(Crime No.266 of 2023)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to release the petitioner herein on bail in Crime No.266 of 2023 on
the file of the respondent police herein.

For Petitioner : Mr.C.T.Saravanan

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

ORDER

The petitioner, who was arrested and remanded to judicial custody
on 12.04.2023, for the offences punishable under Section 328 IPC r/w
Section 6, 24(1) of Cigarette and other Tobacco Products Acts, 2003, in
Crime No.266 of 2023, on the file of the respondent police, seeks bail.



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2. The case of the prosecution is that on 08.04.2023, one Muralidharan was found illegally transporting 2250 pouches of HANS CHAAP without any valid permit from the Government by using a two wheeler bearing Regn.No.TN 82K 1769. Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner is no way connected with the alleged offence and he has been falsely implicated in this case based on the confession given by the arrested accused namely Muralidharan. He further submitted that the said Muralidharan has been enlarged on bail by the learned in-charge Officer/Chief Judicial Magistrate in Cr.M.P.No.417 of 2023 by order dated 13.04.2023 and the petitioner has been suffering incarceration from 12.04.2023. However, on instructions he would submit that without prejudice to his rights and defence, the petitioner is ready to deposit a substantial amount to any charitable institution as may be direction by this Court and he prayed for grant of bail to the petitioner.

4. The learned Government Advocate (Criminal Side) vehemently opposed to grant bail to the petitioner stating that the petitioner is the friend



of the said Muralidharan. The petitioner only had ordered for HANS and as per the instructions and promise of the petitioner that he would give share over the profit in the above said illegal activities, the said Muralidharan took delivery of the HANS worth about Rs.25,000/- and transported the same. However, he would submit that there is no previous case against the petitioner.

5. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl. Side) and perused the materials available on record including the FIR.

6. Considering the facts and circumstances of the case, the submissions made by the learned counsel on either side and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant of bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is directed to deposit a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)** as non refundable deposit, by way of **DD/RTGS/NEFT to the credit of "The Headmaster, Kittappa Municipal Higher Secondary School, Koranad,**



Mayiladuthurai-609002", without prejudice to his rights and contentions before the trial Court, on such deposit and proof of payment, 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 satisfaction of the **learned Judicial Magistrate-1, Mayiladuthurai**, 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. for a period of two weeks and thereafter, on every Saturday at 10.30 a.m. 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.

28.04.2023

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To

1. The Judicial Magistrate – I, Mayiladuthurai.
2. The Inspector of Police
Mayiladuthurai Police Station,
Mayiladuthurai District..
3. The Jailer,
Sub Jail, Mayiladuthurai.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA,J.,

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