



Crl.O.P.No.13640 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2023

CORAM

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

Crl.O.P.No.13640 of 2023

Muthulingam

... Petitioner

Vs.

State rep. by
Inspector of Police,
Thiyagadurgam Police Station
Kalakurichi District
(Crime No.193 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.193 of 2023 on the file
of the respondent police.

For Petitioner : Mr.R.Baskar

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 15.05.2023 for the offence punishable under **Sections 294(b), 273, 328, 353 and 506(i) IPC r/w Section 24 (1) COTPA Act, in Crime No.193 of 2023** on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 15.05.2023, the petitioner was found illegally transporting banned tobacco products viz., Hans-72 Kgs., Cook Lip-25.830 Kgs., RMD Pan Masala-1.975 Kgs., M Scented Tobacco-835 Grams, Vimal Panmasala-16 Kgs, V1 Tobacco-72 Kgs., worth Rs.7 lakhs. Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that the petitioner has been languishing in jail from 15.05.2023 and on instructions, he would submit that without prejudice to his defence, the petitioner is ready and willing to deposit a sum of Rs.2 lakhs to any welfare scheme run by the Government as may be directed by this Court. Hence, he prayed for grant of bail to the petitioner.



4. The learned Government Advocate (Crl. Side) appearing for the respondent vehemently opposed for grant of bail to the petitioner stating that the petitioner was found illegally transporting banned tobacco products worth Rs.7 lakhs and that there are 3 previous cases against the petitioner.

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

6. On considering the voluntary submission made by the learned counsel for the petitioner, this Court is of the opinion that the petitioner shall be directed to deposit a sum of **Rs.2,00,000/- (Rupees Two Lakhs Only)** by way of **RTGS/NEFT to the credit of "The Dean/Medical Officer, Government Mohan Kumaramangalam Medical College and Hospital, Salem"**, without prejudice to his rights and contentions before the trial Court.

7. 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.



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

9. Accordingly, the petitioner is directed to make a non refundable deposit of **Rs.2,00,000/- (Rupees Two Lakhs Only)** by way of **RTGS/NEFT to the credit of "The Dean/Medical Officer, Government Mohan Kumaramangalam Medical College and 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 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 No.II, Kallakurichi**, 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;



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[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 petitioners 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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A.D.JAGADISH CHANDIRA,J.,

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To

1. The Judicial Magistrate No.II, Kallakurichi
- 2.The Inspector of Police,
Thiyagadurgam Police Station
Kallakurichi District
3. The Central Jail, Cuddalore
4. The Public Prosecutor,
High Court of Madras.

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