



Crl.O.P.No.16822 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2023

CORAM

THE HON'BLE MR. JUSTICE **G.CHANDRASEKHARAN**

Crl.O.P.No.16822 of 2023

Allah Bagash @ Basha

...Petitioner

Vs.

The Inspector of Police,
Gudiyatham Town P.S.
Gudiyatham, Vellore Dist.,
(Cr.No.303/2023)

...Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. to enlarge the petitioners on bail in Crime No.303 of 2023 on the file of the Respondent Police.

For Petitioner : Mr.S.Santhan

For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor



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Crl.O.P.No.16822 of 2023

ORDER

The petitioner, who was arrested and remanded to judicial custody on 21.06.2023 for the offences punishable under Sections 7(5), 20(2) of Cigarette and Other Tobacco Products Act 2003 read with 328 of IPC in Crime No.303 of 2023 on the file of the respondent police, seeks bail.

2. The learned counsel for the petitioner submitted that, petitioner is an accused in Crime No.303 of 2023 for the offences under Sections 7(5), 20(2) of Cigarette and Other Tobacco Products Act 2003 read with 328 of IPC. He further submitted that, petitioner is innocent and he is falsely implicated in this case. Petitioner is in judicial custody from 21.06.2023. Thus, he prays for grant of bail.

3. In reply, the learned Additional Public Prosecutor opposes this petition, on the ground that, accused was found in illegal possession of 10 Kgs. and 476 Grams of tobacco products viz., 1. Vimal Pan



Crl.O.P.No.16822 of 2023

Masala-10 Packets (2 kgs. 268 grams), 2. Coll Lip-15 Packets (1 Kg. 695 grams), 3.V-1 Tabaco-30 Packets, 4. Hans-15 Packets (5 Kgs 400 grams), 5. Cooli Lip Filter-17 Packets (1 kg 113 grams), in an auto bearing Regn. No.TN-23-AB-8941, at about 06.00 a.m., on 20.06.2023, at Gudiyatham Nethaji Chowk. On the basis of the confession of the co-accused, the petitioner is implicated in this case. The tobacco product and the vehicle were seized. There is no similar previous case pending against the petitioner. However, he prays for dismissal of this bail petition.

4. Considering the nature of the allegations made against the petitioner, and that the tobacco product and vehicle were seized and that there is no similar previous case against the petitioner and that, the petitioner is in judicial custody from 21.06.2023, this Court is inclined to grant bail to the petitioner and 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, Gudiyatham** and on



Crl.O.P.No.16822 of 2023

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 without prejudice to his defence shall deposit a non-refundable sum of Rs.10,000/- (Rupees Ten Thousand Only), by way of Demand Draft to the Cancer Institute (WIA), East Canal Bank Road, Adyar, Chennai and that the receipt of such payment shall be produced before the concerned Magistrate at the time of executing the bond; It is made clear that 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.

[c] the petitioner shall report before the respondent police daily at 10.30.a.m., until further orders.

[d] the petitioner shall not abscond either during investigation or trial.



Crl.O.P.No.16822 of 2023

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[f] 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].

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

28.07.2023

mpl

To

- 1.The Judicial Magistrate,
Gudiyatham.
- 2.The Central Prison,
Vellore.
- 3.The Inspector of Police,
Gudiyatham Town P.S.
Gudiyatham, Vellore Dist.
- 4.The Public Prosecutor,
High Court of Madras.



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Crl.O.P.No.16822 of 2023

G.CHANDRASEKHARAN. J.

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Crl.O.P.No.16822 of 2023

28.07.2023