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Crl.OP.No.17505 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.08.2023

CORAM

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

Crl.OP.No.17505 of 2023

Sivanandham

..Petitioner

Vs.

State rep by
The Inspector of Police,
Paramathi Police Station,
Namakkal District.
(Cr.No.125 of 2023)

...Respondent.

PRAYER:

Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in Crime No.125 of 2023 on the file of the respondent Police.

For Petitioner : Mr.J.Jayan

For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 12.07.2023 for the offences punishable under Section 273, 328 I.P.C



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r/w Section 24 (1) of Cigarette and other Tobacco Products Act, 2003, in Crime No.125 of 2023 on the file of the respondent police, seeks bail.

2.The learned counsel for the petitioner submitted that, petitioner is falsely implicated as accused on the basis of confessional statement of co-accused. There was no recovery of any tobacco products from him. He is in judicial custody from 12.07.2023. Therefore, he prays for grant of bail to the petitioner.

3.In response, the learned Additional Public Prosecutor submitted that accused 1 and 2 had purchased the tobacco products from this petitioner and it is evident from their confessional statement. Petitioner has previous case pending against him in Case No.513 of 2020 for the offence under Section 323, 324, 325 I.P.C.

4.Considered the rival submissions and perused the records.

5.It is seen from the First Information Report allegations that on



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09.07.2023 at about 10.00 a.m., the respondent Police found near Irukoor Bus stop, Paramathy, accused Nallasivam and Saravanan under suspicious circumstances. On apprehending them, they found to have been illegal possession of following tobacco products:-

- i)Cool lip filter tobacco – 35 kg
- ii)Vimal Pan Masala – 35 Kg
- iii)RMD – 10 Kg
- iv)Hans Chaap – 40 kg
- v)V1 Tobacco – 97 Kg
- vi)M Scented Tobacco Gold – 4 Kg.

6.It is the submission of learned Additional Public Prosecutor that only on the basis of confessional statement of co-accused, petitioner is implicated as a supplier. However, apart from the confessional statement of co-accused, it appears that there is no other incriminatory material available against this petitioner to show that he procured tobacco products and then supplied to accused 1 and 2. The tobacco products had been recovered. Petitioner is in judicial custody from 12.07.2023 and that



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material part of investigation might have been over by this time, this Court is inclined to grant bail to the petitioner.

7. Accordingly, petitioner is directed to make a non-refundable deposit of **Rs.10,000/- (Rupees Ten Thousand only)** by way of **Demand Draft/RTGS/NEFT** to the credit of the **Cancer Institute (WIA), East Canal Bank Road, Adyar, Chennai**, and on such deposit 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, Paramathi**, 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 without prejudice to his defence shall deposit a non-refundable sum of **Rs.10,000/-** each, 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,



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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 10.00.a.m., until further orders.

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

[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.



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To

- 1.The Judicial Magistrate,
Paramathi.
- 2.The Inspector of Police,
Paramathi Police Station,
Namakkal District.
- 3.Central Prison, Salem.
- 4.The Public Prosecutor,
High Court of Madras



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