



Crl.OP.No.19169 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2023

CORAM

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

Crl.OP.No.19169 of 2023

Akbar Basha

...Petitioner

Vs.

The State Rep by
The Inspector of Police,
Kaveripakkam Police Station,
Ranipet District
(Crime No.149 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.149 of 2023 on the
file of the respondent Police.

For Petitioner : Mr.R.Sasikumar

For Respondent : Mr.S.Rajakumar

Additional Public Prosecutor



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 16.06.2023 for the offences punishable under Section 328 I.P.C and under Section 7 (5), 20 (2) of the Cigarettes and other Tobacco Products Act, 2003 in Crime No.149 of 2023 on the file of the respondent police, seek bail.

2.The learned counsel for the petitioner submitted that this is the third bail petition filed by the petitioner. He further submitted that, petitioner is falsely implicated in Cr.No.149 of 2023 for the offences under Section 7 (5), 20 (2) of the Cigarettes and other Tobacco Products Act, 2003 and under Section 328 I.P.C. He further submitted that, co-accused were granted bail by this Court. Petitioner is in judicial custody from 16.06.2023. Therefore, he prays for grant of bail to the petitioner.

3.In response, the learned Additional Public Prosecutor submitted that, this is a case involving illegal possession of 164 kg of tobacco products. Petitioner/A3 was found in possession of 37 kg, A5 was found in possession of 90 kg and A6 was found in possession of 10.5 kg of



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tobacco on 16.06.2023. He further submitted that, petitioner/A3 has one similar case pending against him. Vehicle used for transporting tobacco products were recovered.

4. It is seen that, this is the third bail petition filed by the petitioner. Earlier bail petition was dismissed for the reason that, petitioner has one similar previous case pending against. Considering the duration of the custody and the fact that, substantial part of the investigation might have been over by this time, this Court is inclined to grant bail to the petitioner.

5. Accordingly, the petitioner is ordered to be released on bail on executing a separate bond for a sum of **Rs.25,000/-** (Rupees Twenty Five Thousand only) each with **two sureties**, each for a like sum to the satisfaction of the **learned Judicial Magistrate No.I, Walaja**, and on further conditions that :-



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[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.15,000/-, by way of Demand Draft to the Chief Minister's Public Relief Fund, Finance (CMPRF) Department, Government of Tamil Nadu, Secretariat, Chennai 600 009, Tamil Nadu, India, Indian Overseas Bank, Secretariat Branch, Chennai 600 009, S.B.Account No.11720 10000 00070, IFS Code IOBA0001172, CMPRF PAN: AAAGC0038F 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.



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[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.

22.08.2023

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To

1.The Judicial Magistrate No.I, Walaja.

2.The Inspector of Police,
Kaveripakkam Police Station,
Ranipet District

3.Sub Jail, Walaja.

4. The Public Prosecutor,
Madras High Court.



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G.CHANDRASEKHARAN. J.

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