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CrI.O.P.No.32636 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.01.2023

CORAM :

THE HON'BLE MRS. JUSTICE T.V. THAMILSELVI

CrI.O.P.No.32636 of 2022

Alagamuthu,
S/o.Chinnamuthu

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
Kondalampatty Police Station,
Salem Dt.
(Crime No.680 of 2022)
Respondent

...

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.680 of 2022 pending on the file of respondent police.

For Petitioner : Mr.B.Vasudevan

For Respondent : Mr.S.Vinoth Kumar,
Govt. Advocate (CrI.Side.)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 16.12.2022 for the alleged offence under Sections 273, 328 of I.P.C. and Sec.6, 24 (1) of COTPA Act, 2003 in Crime No.680 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 16.12.2022 at 04.00 p.m. on a secret information, the respondent police went for raid near Ponnaiyan Maligai shop, which was run by the petitioner situated near Vembadithalam Railway gate, the petitioner said to have found in illegal possession of banned tobacco products weighing 8.700 kg. worth about Rs.9,600/-, which was banned by the Government of Tamil Nadu. Hence, the complaint.

3. The learned counsel for the petitioner submitted that he has not at all committed any offence as alleged by the respondent police and he is no way connected with the offence and he has been falsely



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implicated in this case. He would further submit that the investigation is almost completed and that the petitioner has been suffering incarceration for more than 17 days from 16.12.2022. Hence, he prayed to grant bail to the petitioner.

4. The learned Government Advocate (Crl. Side) would submit that the petitioner is the sole accused and no previous case pending against him. He would submit that on the date of occurrence, the petitioner found in illegal possession of 8.700 kgs. of tobacco products, which is worth about Rs.9,600/-. He would submit that if he is released on bail, he would hamper the investigation and tamper the witnesses and investigation is almost completed. Hence, he opposed to grant bail to the petitioner.

5. Considering the facts and circumstances of the case, and also the fact that no previous case pending against the petitioner and investigation almost completed and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.



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6. Accordingly, the petitioner is ordered to be released on bail on executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, for a like sum to the satisfaction of the ***learned Judicial Magistrate No.5, Salem***, 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 on every Tuesday and Sunday at 10.30 a.m. for the period of eight weeks.

(c) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioner shall not abscond 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



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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]*; and;

(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

03.01.2023

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To

1. The Judicial Magistrate No.5,
Salem.
2. Inspector of Police,
Kondalampatty Police Station,
Salem Dt.
3. The Superintendent of Prison,
Central Prison, Salem.
4. The Public Prosecutor,
High Court of Madras, Chennai.



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T.V. THAMILSELVI, J.

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