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Crl.O.P.No.11927 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.05.2024

CORAM:

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

Crl.O.P.No.11927 of 2024

Safur Ali,
S/o.Syed Abudahir

... Petitioner/Accused

Versus

State rep. by:

The Inspector of Police,
N3 Muthialpet Police Station,
Chennai.
(Crime No.85/2024)

... Respondent/Complainant

For Petitioner : Mr.R.Rafi Babu

For Respondent : Ms.M.Sumai Arnic
Public Prosecutor

PRAYER: Criminal Original Petition filed under Section 439 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to enlarge on bail the petitioner/ accused No.4 in Crime No.85 of 2024 on the file of the respondent police.

ORDER

This Criminal Original Petition has been filed by the petitioner on 13.05.2024 under Section 439 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to grant bail.

2. The petitioner / Accused was arrested and remanded to judicial custody on 28.04.2024 for the alleged offences punishable under Sections 6 (a)



and 24(1) of Cigarettes and other Tobacco Products Act 2003, 273 and 328 IPC in Crime No.85 of 2024, on the file of the respondent police.

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3. The case of the prosecution is that on 27.04.2024, the petitioner was found in possession of 750 packets of Hans, Tobacco, 592 packets of Cool lip Tobacco, 300 packets of jartha and 300 packets of RMD PAN Masala and the same were seized by the respondent police. Hence, the complaint registered against the petitioner.

4. The learned counsel appearing for the petitioner submitted that the petitioner/accused is innocent and he has not committed any offence as alleged by the prosecution. This petitioner has been falsely implicated in this case by the respondent police. The petitioner is in judicial custody since 28.04.2024. The earlier bail application filed by the petitioner was dismissed by the learned XIII Additional Judge, Chennai. He further submitted that if this Court grants bail to the petitioner, he is ready to produce local sureties to the satisfaction of the Court. He, therefore, prayed to grant bail to the petitioner.

5. The learned Public Prosecutor appearing for the respondent police submitted that the petitioner was in illegal possession of 750 packets of Hans, Tobacco, 592 packets of Cool lip Tobacco, 300 packets of jartha and 300 packets of RMD PAN Masala. She further submitted that the petitioner has no



previous case; that investigation is not yet completed; and that at this stage of investigation, if bail is granted to the petitioner, he will cause threat to the defacto complainant and witnesses. Accordingly, she prayed to dismiss this Criminal Original Petition.

6. Heard on both sides. This Court has perused the records.

7. The petitioner is a first offender and he has no previous case. He has permanent residence and deep roots in the society. Hence, there is less possibility for absconding. Considering the above reasons, this Court is inclined to grant bail to the petitioner, however, subject to certain conditions. Accordingly, bail is granted to the petitioner subject to the following conditions:

(i) The petitioner shall execute a **bond for Rs.25,000/-** (Rupee Twenty-Five Thousand only) along with two sureties each for a like sum of Rs.25,000/- (Rupees Twenty-Five Thousand only) to the satisfaction of the **learned XVI Metropolitan Magistrate at George Town, Chennai. One of the sureties must be a local surety.**

(ii) The sureties shall affix their photographs and left thumb impression in the Application for Suretyship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019]. The learned Metropolitan Magistrate shall obtain a copy of any one of identity proofs to ensure their identity;



daily at 10.00 a.m., until further orders;

(iv) The petitioner shall not, directly or indirectly, cause any threat to the witnesses and shall not tamper the evidence.

(v) On breach of any of the aforementioned conditions, the learned Magistrate is entitled to pass appropriate orders against the petitioner in accordance with law as if the aforementioned conditions are imposed by him as laid down by the Hon'ble Supreme Court in P.K. Shaji vs. State of Kerala [(2005) 13 SCC 283].

8. Accordingly, this Criminal Original Petition is allowed subject to the conditions stated *supra*.

16.05.2024

Index : Yes/No

Internet : Yes/No

Neutral citation : Yes/No

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Note:-

- 1. Registry is directed to forthwith upload this order in the official website of this Court.**
- 2. All concerned to act on this order being uploaded in official website of this Court without insisting on certified hard copies. To be noted, this order when uploaded in official website of this Court will be watermarked and will also have a QR code.**

To



2. DO THROUGH:

The XXIII Additional Judge, Chennai.

3. The Superintendent of Police,
Central Prison, Puzhal.

4. The Inspector of Police,
N3 Muthialpet Police Station,
Chennai.

5. The Public Prosecutor,
High Court, Madras.



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R.SAKTHIVEL, J.

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