



Crl.O.P.No.12033 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.05.2024

CORAM

THE HON'BLE MR. JUSTICE R.SAKTHIVEL

Crl.O.P.No.12033 of 2024

Sirajudeen

S/o.Bagurudeen

... Petitioner/ Second Accused

Vs.

The State rep. by
The Inspector of Police,
North Beach Police Station,
Flower Bazaar, Chennai.
(Crime No.135 of 2024)

...Respondent/Complainant

PRAYER: The Criminal Original Petition filed under Section 438 of the Criminal Procedure Code, 1973, praying to enlarge the petitioner on anticipatory bail in the event of his arrest in Crime No.135 of 2024 on the file of the respondent police.

For Petitioner : Ms.M.Janani

For Respondent : Mr.C.E.Pratap

Government Advocate (Crl. Side)



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ORDER

This Criminal Original Petition has been filed by the petitioner on 13.05.2024 under Section 438 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to grant an order of pre-arrest bail.

2. The petitioner apprehends arrest at the hands of the respondent Police for the offences punishable under Sections 24(1) of Cigarettes and other Tobacco Products Act, 2003 (COTPA, 2003) (Act No.34 of 2003) read with Section 328 of IPC in Crime No.135 of 2024 on the file of the respondent police.

3. The case of the prosecution is that, on 07.05.2024, A1-Salman was found in possession of 300 packets of HANS. When interrogated, A1 alleged that it is the petitioner whose directions, he sells HANS. Hence the case.

4. The learned counsel for the petitioner submitted that the petitioner has been arrayed as A2 in the case, he is innocent, he is working as daily wage labourer and he has been falsely implicated in this case. Hence, he prays for grant of anticipatory bail to the petitioner.



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5. The learned Government Advocate appearing for the respondent submitted that on 07.05.2024, A1 found in possession of 300 packets of HANS. Based on the A1's confession, the petitioner has been arrayed as A2. He also submitted that there is one previous case against the petitioner. Hence, he prayed to dismiss the petition.

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

7. On 07.05.2024, A1 was found in possession of 300 packets of HANS. Based on his confession, the petitioner was arrayed as A2. The petitioner has permanent residence and deep roots in the society. Hence, there is less possibility of absconding. Considering the above facts and circumstances of the case, the quantity of the seized property and also considering that petitioner is a daily wage labourer (coolie) and with a view to give one more opportunity to reform himself, this Court is inclined to grant an order of pre-arrest bail to the petitioner subject to the following conditions.

(i) The petitioner shall be released on bail in the event of their arrest or in the event of their surrender before the **VII Metropolitan**



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Magistrate, George Town Court, Chennai, within a period of 15 days from today, on executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each along with two sureties each for a like sum of Rs.10,000/- to the satisfaction of the learned **VII Metropolitan Magistrate, George Town, Chennai**.

(ii) **The petitioner shall appear and sign before the respondent Police on every Monday and Friday at 10.00 a.m, until further orders;**

(iii) 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;

(iv) The petitioner shall furnish his residence address and mobile number to the learned Metropolitan Magistrate;



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(v) The petitioner shall not, directly or indirectly, cause any threat to the defacto complainant and witnesses and shall not tamper the evidence;

(vi) 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.

17.05.2024

Index : Yes/No

Internet : Yes/No

Sma

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.**



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R.SAKTHIVEL. J.

Sma

To

- 1.The VII Metropolitan Magistrate, George Town, Chennai
- 2.The Inspector of Police,
North Beach Police Station,
Flower Bazaar, Chennai.
- 3.The Public Prosecutor, High Court of Madras.

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