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CRL O.P. No.22245 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.09.2024

CORAM

THE HON'BLE MR.JUSTICE P.DHANABAL

**CRL OP.No.22245 of 2024**

Divakaran Asaria

... Petitioner / Accused - 5

Vs

State rep. by  
The Inspector of Police,  
Podanur Police Station,  
Coimbatore.

(Crime No.164 of 2024)

... Respondent

**PRAYER:** - The Criminal Original Petition is filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, (BNSS) 2023, praying to enlarge the Petitioner on bail in Crime No.164 of 2024 on the file of the respondent police.

For Petitioner : Mr.P.Thinesh

For Respondent : Mr.S.Vinothkumar  
Government Advocate  
(Criminal Side)



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## **ORDER**

The petitioner, who was arrested and remanded to judicial custody on 29.07.2024, for the offences punishable under Sections 6(b) and 24(1) of COTPA Act, and Section 123 of BNS, 2023, in Crime No.164 of 2024, on the file of the respondent seeks bail.

2.It is the case of the prosecution that on 29.07.2024, while the respondent police were on regular patrol duty, the petitioner along with the other accused were found in possession of 232 kgs of banned tobacco products worth about Rs.2,50,000/-. Hence, the case.

3.The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that the petitioner has been in custody from 29.07.2024. He would also submit that there is no previous case against the petitioner and the petitioner is ready to abide by any stringent condition that may be imposed by this Court. Hence, he prays for grant of bail to the petitioner.



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4. The learned Government Advocate (Crl. Side) would submit that the petitioner along with the other accused were found in possession of 232 kgs of banned tobacco products worth about Rs.2,50,000/-. He would further submit that there is no previous case against the petitioner and the material has been seized by the officials. However, he vehemently opposed to grant bail to the petitioner.

5. Heard both side learned counsel and perused the materials available on record.

6. Considering the nature of offences charged against the petitioner and that no previous case is pending against the petitioner and also taking into consideration the number of days of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner subject to the following conditions:

[a] Accordingly, the Petitioner is ordered to be released on bail on condition to execute 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 **District Munsif cum Judicial Magistrate Court, Madukkarai, Coimbatore**, and on further conditions that;



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**[b] the Petitioner shall report before the respondent police daily at 10.30 a.m., for a period of 30 days and thereafter, as and when required for interrogation.**

[c] the Petitioner shall not commit any offences of similar to the offence of which he is accused, or suspected, or of the commission of which he is suspected;

[d] the Petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

[e] the Petitioner shall not abscond either during investigation or trial;

[f] On breach of any of the aforesaid conditions, the learned Judicial 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]; and

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 B.N.S.

20.09.2024

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To  
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1.The District Munsif cum Judicial Magistrate Court,  
Madukkarai, Coimbatore.

2.Central Prison, Coimbatore.

2.The Inspector of Police,  
Podanur Police Station,  
Coimbatore.

3.The Public Prosecutor, High Court, Madras.



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**P.DHANABAL,J.**  
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