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CrI.O.P.No.27907 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2024

CORAM

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.27907 of 2024

Sathishkumar

... Petitioner

Vs.

State represented by
The Inspector of Police,
Kallakurichi Police Station,
Kallakurichi District.
(Cr.No.713 of 2024)

... Respondent

PRAYER: Criminal Original Petition filed under Section 483 of BNSS Act, pleaded to enlarge the petitioner on bail in Crime No.713 of 2024, pending investigation on the file of the respondent Police.

For Petitioner : Mr.K.Prabakar

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (CrI.Side)

ORDER

This Criminal Original Petition has been filed by the petitioner, who was arrested and remanded to judicial custody on 09.10.2024, seeking



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bail in Crime No.713 of 2024 registered for the offence under Section 123 of the Bharatiya Nyaya Sanhita(BNS) 2023 and Section 24(1) Cigarettes and Other Tobacco Products Act, 2003.

2. The case of the prosecution is that the petitioner along with other accused was found to be in illegal possession of 81 kilograms and 720 grams of banned tobacco products, worth Rs.32,800/-. Hence, the complaint.

3. Learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. He also submitted that the petitioner is in custody from 09.10.2024 and he is also ready to abide by any other stringent conditions that may be imposed by this Court. Hence, he prayed for grant of bail to the petitioner.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that there are totally five accused in this case and the petitioner herein is arrayed as A2. He further submitted that the petitioner along with other accused was found to be in illegal possession of 81 kilograms and 720 grams of banned tobacco products, worth Rs.32,800/-.



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He further submitted that A3 and A4 were arrested and enlarged on bail. He further submitted that there is no previous case against the petitioner, however, he opposed for granting bail to the petitioner.

5. At this juncture, the learned counsel for the petitioner submitted that the petitioner, without prejudice to his defense and contention, is ready and willing to deposit an amount of Rs.5,000/- as non-refundable deposit to any welfare scheme of the Government or any other organization. Hence, he prayed for grant of bail to the petitioner.

6. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) for the respondent Police and perused the materials available on record.

7. On considering the voluntary submission made by the learned counsel for the petitioner, the petitioner is directed to deposit a sum of Rs.5,000/- (Rupees Five thousand only) as non refundable deposit to "The District Legal Service Authority, Kallakurichi", without prejudice to his rights and contentions before the trial Court.



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8. 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.

9. Taking into consideration the above facts and circumstances of the case, the submissions made by the learned counsel on either side and also considering that there is no previous case against the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

10. Accordingly, the petitioner is ordered to be released on bail on condition to make a non-refundable deposit of **Rs.5,000/- (Rupees Five Thousand only)** to the credit of "**The District Legal Service Authority, Kallakurichi**", without prejudice to his rights and contentions before the trial Court and on such deposit and production of proof, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.15,000/- (Rupees Fifteen Thousand only)** with **two sureties**, each for a like sum to the satisfaction of the learned **Judicial Magistrate No.I, Kallakurichi**, 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 shall report before the respondent Police, everyday at 10.30 a.m, until further orders;

[c] the petitioner shall not abscond either during investigation or trial;

[d] the petitioner shall not tamper with evidence or witness 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 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]*;

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

07.11.2024

drl



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To

1. The Judicial Magistrate-I,
Kallakurichi
2. The Inspector of Police,
Kallakurichi Police Station,
Kallakurichi District.
3. The Sub Jail,
Kallakuruchi.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

drl

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