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CrI.O.P.No.27685 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2024

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

CrI.O.P.No.27685 of 2024

Desam @ Kakka

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
H-5, New Washermenpet Police Station,
Chennai.

(Crime No.1144 of 2024).

... Respondent

PRAYER: Criminal Original Petition filed under Section 483 of BNSS, pleaded to enlarge the petitioner on bail, in connection with the Crime No.1144 of 2024, pending investigation on the file of the respondent Police.

For Petitioner : Mr.N.Yuganathan

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

ORDER

This Criminal Original Petition has been filed by the petitioner/A1, who was arrested and remanded to judicial custody on 15.10.2024, seeking bail in



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Crime No.1144 of 2024 registered for the offence under Sections 7, 9(ii) of TNPSS Act, Section 6, 24(1) of the Cigarette and other Tobacco Products Act, 2003 and Sections 275, 123 of BNS.

2. The case of the prosecution is that when the respondent and his team were on their regular patrol duty, they found that the accused were indulged in selling banned tobacco products and from them, 5.875 kilograms of banned tobacco products were seized. Hence the case.

3. Learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and she has been falsely implicated in this case. He also submitted that the petitioner is in custody from 15.10.2024 and she 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 the petitioner along with other accused was found to be in illegal possession of 5.875 kilograms of banned tobacco products with an intention to sell the same. He further submitted that one previous case of



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similar nature is pending against the petitioner, hence, 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 her defense and contention, is ready and willing to deposit an amount of Rs.10,000/- as non-refundable deposit to any welfare scheme of the Government or to any shelter home. 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.10,000/- (Rupees Ten thousand only) as non refundable deposit to "The Dean, Rajiv Gandhi Government General Hospital, Chennai," without prejudice to her rights and contentions before the trial Court.



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8. Merely, because the petitioner has deposited the said amount, it would not amount to admission of her 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 the period of incarceration undergone by 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.10,000/- (Rupees Ten Thousand only)** to the credit of **“The Dean, Rajiv Gandhi Government General Hospital, Chennai, bearing A/c. No.10273425961, State Bank of India, Park Town (Chennai), 68, Evening Bazaar Road, Chennai, IFSC:SBIN0001856”**, without prejudice to her 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 her 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 **XV Metropolitan Magistrate, George Town, Chennai**, and on



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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, 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.

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A.D.JAGADISH CHANDIRA.,J.

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To

1. The XV Metropolitan Magistrate, George Town,
Chennai.
2. The Inspector of Police,
H-5 New Washermenpet Police Station,
Chennai.
3. The Puzhal Prison - III,
Chennai.
4. The Public Prosecutor,
High Court of Madras.

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