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Crl.O.P.No.28313 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2024

CORAM

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

Crl.O.P.No.28313 of 2024

Kamala

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Thiruvallur Taluk Police Station,
Thiruvallur.
(Crime No.478 of 2024).

... Respondent

PRAYER: Criminal Original Petition filed under Section 483 of BNSS Act, pleaded to enlarge the petitioner on bail, in connection with the Crime No.478 of 2024, pending investigation on the file of the respondent Police.

For Petitioner : Mr.P.Pugalenth

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

ORDER

This Petition has been filed by the petitioner, who was arrested and remanded to judicial custody on 13.10.2024, seeking bail in Crime No.478 of 2024 registered for the offence under Sections 132, 351(2) of BNS, 2023 r/w. Section 24(1), 6(b) of Cigarette and Other Tobacco Products Act, 2003 and



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Section 77 of Juvenile Justice (Care and Protection of Children) Act, 2015.

2. The case of the prosecution is that petitioner was found in possession of 5 Kgs of banned tobacco products. 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 13.10.2024, he is also ready to abide by any 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, while opposing for grant of bail to the petitioner, submitted that A-1 came in a two wheeler was in possession of 47 Kgs of banned tobacco product and based on his confession, the shop owned by petitioner/A-2 herein were found to be in possession of 5 Kgs of tobacco products and same were seized. Hence, he oppose to grant bail to the petitioner.



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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 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/- as non refundable deposit to "District Legal Services Authority, Thiruvallur", without prejudice to his rights and contentions before the trial Court.

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.



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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 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.5,000/- (Rupees Five Thousand only)** to the credit of "**District Legal Services Authority, Thiruvallur**", 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 **District Mahila Court (Fast Track Court), Tiruvallur**, and on 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 evening at 06.30 p.m.,



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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.

dsn

To

1. The District Mahila Court (Fast Track Court),
Thiruvallur.
2. The Inspector of Police,
Thiruvallur Taluk Police Station,
Thiruvallur.
3. The Special Prison for Women,
Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras.

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