



**Crl.O.P.No.28589 of 2024**

**A.D.JAGADISH CHANDIRA, J.**

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The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 274, 275, 123 of BNS, 2023, r/w 24 (1) of COTPA Act, and Section 9(ii) of Tamil Nadu Prohibition of Smoking and Spitting Act, 2003 and 77 of the Juvenile Justice (Care and Protection of Children) Act, 2015, in Crime No.1173 of 2024, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that when the respondent police was on routing surveillance near Vanagaram Odama Service Road, the petitioner along with other accused was found in possession of banned tobacco products worth about Rs.5000/- illegally and seized the contraband from them. Hence, the case.

3.The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that he has no previous case against him and without prejudice to his contentions, the petitioner is prepared to deposit an amount of Rs.5,000/- towards any charitable organization or association. Therefore, he prays for grant of anticipatory bail to the petitioner.



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4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioner was found to be in illegal possession of banned tobacco products worth about Rs.5000/-. He further submitted that no previous case is pending as against the petitioner. Therefore, he vehemently opposed for grant of anticipatory bail to the petitioner.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.side) for the respondent and perused the materials available on record.

6. Taking into consideration the facts and circumstances of the case, also the submissions made by the learned counsel on either side and the fact that there is no previous case pending against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner. However, in order to curb illegal sale of banned tobacco products and taking into consideration the voluntary submission made by the petitioner offering to deposit a considerable amount to any charitable organization or association, this Court is of the opinion that as one of the conditions for grant of anticipatory bail,



the petitioner may be directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) to the credit of Tamil Nadu State Legal Services Authority, Chennai, without prejudice to his rights and contentions before the trial Court.

7.It is made clear that merely because the petitioner is depositing the amount, it would not amount to the petitioner admitting his guilt in the criminal case and such amount is being paid without prejudice to the right of the petitioner.

8.Accordingly, the petitioner shall make a non refundable deposit of **Rs.5,000/- (Rupees Five Thousand only)** by way of Demand Draft/RTGS/NEFT to the credit of the **Tamil Nadu State Legal Services Authority, Chennai**, and on such deposit and on receipt of proof of payment, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the ***Judicial Magistrate-II Court, Poonamallee***, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing



which, the petition for anticipatory bail shall stand dismissed and on further conditions that:

**[a] the petitioner shall report before the respondent police everyday at 06.30 p.m. for the period of two weeks and thereafter, on every Saturday at 10.30 a.m. until further orders.**

**[b] the petitioner shall not tamper with evidence or witness either during investigation or trial;**

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

**[d] 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];****

**[e] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 of BNS.**

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