



Crl.O.P.No.27975 of 2023

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C.V.KARTHIKEYAN,J.

The petitioner/A1 who was arrested and remanded to judicial custody on 27.11.2023 for the offences registered under Sections 5, 22(b) of COTP Act, and Sections 188, 328 of IPC in Cr.No.293 of 2023 on the file of the respondent Police, seeks bail.

2.The case of the prosecution is that on 27.11.2023, based on a secret information received from the Village Administrative Officer, Kizhakalpoondi, that the company of the petitioner was indulged in sale of chewing tobacco products and this information was forwarded to the Food Safety Officer and also to the respondent. Thereafter, a surprise inspection was conducted at the company of the petitioner and it was found that the petitioner had stored 10.630 tons of chewing tobacco products which have been banned in the State of Tamil Nadu. They have been processed and kept ready for sale in the market. Thereafter, FIR in Crime No.293 of 2023 had been registered for the offences under Sections 5, 22(b) of COTP Act and Sections 188, 328 of IPC

3.The learned counsel for the petitioner stated that the co-accused had been granted bail during vacation Court by a learned Single Judge in



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Crl.O.P.No.29247 of 2023 by order dated 29.12.2023. The said Judge is now sitting at Madurai Bench and therefore, the matter is heard by this Court.

4. It is the contention of the learned counsel that the petitioner had been incarcerated for a period of 46 days and it is stated that the petitioner had been granted license to store the drug. It had also been stated that the petitioner had permission to de-seal the closed factory premises which had been granted by an order dated 21.11.2022 in Na.Ka.No.76/2022 by Food Safety Inspector, at Cuddalore. It is therefore contended that the petitioner had only opened the factory premises and at that time, the respondent had registered the FIR as if the petitioner was making preparation to sell the products. It is also contended that a learned Single Judge of Madurai Bench of this Court, by an order dated 18.07.2022, in a batch of Writ Petitions, in which the petitioner was not a party, had held that the impugned notices directing seizure of banned tobacco products are illegal and had quashed the said notices. It is contended that the matter is now pending for further consideration of the Hon'ble Supreme Court.

5.A careful perusal of the First Information Report shows that the petitioner had given an undertaking that he would not open the factory and he would not sell the products for consumer use.



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6.The order to de-seal relied on by the learned counsel for the petitioner is in November 2022. The First Information Report had been registered on 28.11.2023, after one year, when it was found that the factory premises was still open. The order is also only conditional and it does not give a carte blanche to the petitioner to possess the products and open the factory at all times. It is only subject to the conditions as imposed by the Food Safety Inspector. The quantity of products seized is substantial nearly more than 10 tons. It is also the specific case of the respondent that it is not old stock but fresh stock prepared for easy sale to domestic customers. There is also an undertaking mentioned in the FIR which has been given namely that the petitioner would not indulge in any of these kind of activities.

7.In view of the above, I am not inclined to grant bail to the petitioner.

8.Hence, this Criminal Original Petition stands dismissed.

12.01.2024

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