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Crl.O.P.No.31508 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-12-2024

CORAM

THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA

CRL OP NO. 31508 of 2024

KAMALANATHAN

S/o Balasundaram, No 768 East Street Somanthangal
Ariyapadi Arni Taluk Tiruvannamalai District

Petitioner(s)

Vs

The State By

Inspector of police, Peranamallur Police Station,
Tiruvannamali District. Crime No. 469 of 2024

Respondent(s)

For Petitioner(s):

Thirumoorthy D
D Ramesh Kumar

For Respondent(s):

Public Prosecutor

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 275 and 123 of BNS, 2023 and Section 24(1) of Cigarette and other Tobacco Products Act, 2003 in Crime No.469 of 2024, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that on 28.11.2024, the complaint



has been lodged against the petitioner herein, based on a confession statement of the first accused that, the petitioner had supplied 30 pockets of banned Hans each weighing 300 grams to the first accused and induced him to sell the same in his petty shop. Hence, this case.

3. Learned counsel appearing for the petitioner would submit that petitioner is innocent and has not committed any offence and falsely implicated in this case, based on the confession of the co-accused. He would further submit that no contra band substances were seized from the petitioner and the petitioner without prejudice to his contentions is prepared to deposit an amount of Rs.5,000/- towards any charitable organization or association and also ready to produce solvent sureties and to abide by any conditions that may be imposed by this Court and also undertake to appear and to co-operate for the investigation, therefore, he prayed for the grant of anticipatory bail to the petitioner.

4. Learned Government Advocate (Crl. Side) appearing for the respondent police opposed for granting of anticipatory bail to the petitioner, stating that the co-accused was found in possession of 30 pockets of Hans each weighing 300 grams, which has been kept in his petty shop for sales and based on his confession, it is found that the petitioner had supplied and instigated the accused to sell the tobacco products. He would further submit that the petitioner



had involved in two other previous cases registered in Crime Nos.893 and 546 of 2024, further, the petitioner was arrested for the offence in Crime No.893 of 2024 and subsequently, released on bail on 10.12.2024. Since, the petitioner was in custody, the respondent police had not taken any steps to formally arrest the petitioner in the present case.

5. In reply, the learned counsel appearing for the petitioner submits that in all other cases, the petitioner has been falsely implicated, only based on the confession of the co-accused. He also submitted that all the cases were registered against the petitioner in the same period of time.

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

7. Taking note of the facts and circumstances of the case, the submissions made by the learned counsel on either side 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 petitioners may be directed to deposit a sum of Rs.5,000/- (Rupees Five



Thousands only) to the credit of "**Seva Chakkara Samajam Orphanage**", without prejudice to his rights and contentions before the trial Court.

8. 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.

9. Accordingly, the petitioner shall make a non refundable deposit of **Rs.5,000/- (Rupees Five Thousands only)** by way of Demand Draft/RTGS/NEFT to the credit of the **Seva Chakkara Samajam Orphanage, A/c.No. 0943101024681, IFSC Code No. CNRB0000943, Canara Bank, Vepery Branch** 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 *learned Judicial Magistrate, Cheyyar* of Rs.10,000/- (Rupees Ten Thousands only) with two sureties each 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, this Court is inclined to grant anticipatory bail to the petitioner with certain



conditions.

[a] the petitioner and 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 tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond 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 of B.N.S.



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To

1. The State By
Inspector of police,
Peranamallur Police Station,
Tiruvannamali District.
Crime No. 469 of 2024

A.D. JAGADISH CHANDIRA, J.

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