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CRL OP NO. 1086 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-01-2025

CORAM

THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA

CRL OP NO. 1086 of 2025

Pasul

S/o. Muhammed Kaasim, 2nd Street, No.262, Sadham Ussain Nagar,
Puduppattinam, Chengalpattu District.

Petitioner(s)

Vs

State Rep.By, The Inspector Of Police,
Kalpakkam Police station, Chengalpattu district (In crime No. 123 of 2024)

Respondent(s)

For Petitioner(s): Mr. Venkatesan Athi

For Respondent(s): Mr.S.Santhosh, Government Advocate (criminal Side).

ORDER

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



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2. The case of the prosecution is that the petitioner was found in possession of

13 packets of Hans an 25 packets of Vimal Pan Masala, banned tobacco products, for sale in a shop. Hence, this case.

3. The learned counsel for the petitioner submits that the petitioner is merely the owner of the shop and he is no way connected to the alleged offences as claimed by the prosecution, and he has been falsely implicated in this case. He further submitted that, without prejudice to his contentions, the petitioner is willing to deposit a non-refundable amount to any charitable organization or association. Therefore, he prays for grant of anticipatory bail to the petitioner.

4. Learned Government Advocate (Crl.side) appearing for the respondent Police opposed the granting of anticipatory bail to the petitioner, stating that the petitioner is the owner of the shop and the contraband were seized from the accused/A2, who arrested and released on bail. The petitioner has no previous case pending against him.



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5. Heard the learned counsel for the petitioner and the learned Government

Advocate (Crl. side) appearing for the respondent and perused the materials available on record.

6. Taking into consideration the facts and circumstances of the case and considering the fact that the petitioner is the owner of the shop and the contraband were seized from the accused/A2, who was arrested and enlarged on bail, this Court is inclined to grant anticipatory bail to the petitioner. However, in order to curb illegal activities 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 District Legal Services Authority, Chengalpattu District, 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 **District Legal Services Authority, Chengalpattu District**, 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, Thirukkazhukundram, Chengalpattu District,

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 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 daily at 10.30 a.m., until further orders.

[c] the petitioner shall not tamper with evidence or witness either during the



investigation or during the trial.

[d] the petitioner shall not abscond either during the investigation or during the 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 was 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 petitioner thereafter absconds, a fresh FIR can be registered under Section 269 of BNS.

21-01-2025

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To
1. State Rep.By, The Inspector Of Police,
Kalpakkam Police Station,
Chengalpattu district
(Crime No. 123 of 2024)



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A.D. JAGADISH CHANDIRA, J.

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