

CRL.OP(MD).No.7092 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.04.2025**

PRESENT

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

CRL.OP(MD).No.7092 of 2025

Isthikar Alam

... Petitioner / Accused No.2

Vs.

The State of Tamil Nadu rep by
The Inspector of Police,
Thideernagar Police Station,
Madurai City.
(Crime No.499 of 2024)

... Respondent / Complainant

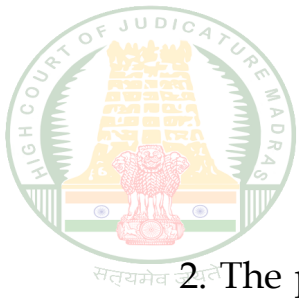
PRAYER :- The Criminal Original Petition filed under Section 482 of the Bharatiya
Nagarik Suraksha Sanhita (BNSS), 2023 praying to grant pre-arrest bail to the
petitioner in Crime No.499 of 2024 on the file of the respondent-police.

For Petitioner : Mr.Kannan Gurusami,
Advocate.

For Respondent : Mr.K.Sanjai Gandhi,
Government Advocate
(Criminal Side)

ORDER : The Court made the following order :-

This Criminal Original Petition has been filed by the petitioner on 16.04.2025
under Section 482 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, praying
to grant an order of pre-arrest bail.



CRL.OP(MD).No.7092 of 2025

WEB COPY

2. The petitioner apprehends arrest at the hands of the respondent- police for the offence punishable under Sections 6(a), 6(b), and 24(1) of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 ("COTPA Act, 2003") and Section 77 of the Juvenile Justice (Care and Protection of Children) Act, 2015 ("JJ Act"), in Crime No.499 of 2024 on the file of the respondent-police.

3. The case of the prosecution is that the de-facto complainant is the Sub-Inspector of Police, Thideer Nagar Police Station. On 31.12.2024 at about 06:00 P.M., while the de-facto complainant and his team were on patrol duty near U.C. Higher Secondary School, West Marret Street, Madurai, they noticed that A1 and A2 were selling tobacco products to school children. The police team immediately surrounded them but managed to apprehend only A1, while A2 fled from the place of occurrence. The respondent-police recovered 62 packets of prohibited Ganesh brand tobacco products from A1. A1 gave a confession statement, disclosing that A2, who hails from Bihar, used to purchase prohibited tobacco products in wholesale from other States, stock them at his house. Hence, the case.

4. Mr.Kannan Gurusami, the learned counsel for the petitioner, submits that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. He further submits that the petitioner has been falsely



CRL.OP(MD).No.7092 of 2025

WEB COPY

implicated in this case. He further submits that the respondent-police had registered the case for statistical purpose only. He however submits that the petitioner is ready to abide by any conditions that may be imposed by this Court. Accordingly, he prays for grant of pre-arrest bail.

5. *Per contra*, Mr.K.Sanjai Gandhi, the learned Government Advocate (Criminal Side) appearing for the respondent-police, submits that there are totally two accused persons in this case and the petitioner has been arrayed as A2. He further submits that A1 was arrested and released on bail by the Trial Court. He further submits that there are no previous cases against the petitioner. He however contends that if pre-arrest bail is granted to the petitioner, he may abscond and tamper with the evidence. Therefore, he submits that custodial interrogation of the petitioner is necessary in this case. Accordingly, he prays to dismiss this Criminal Original Petition.

6. Heard on both sides. This Court has perused the records.

7. Considering the nature of the offence allegedly committed by the petitioner and the fact that the petitioner is the first offender and since the contraband has already been seized, this Court is of the view that custodial interrogation of the



CRL.OP(MD).No.7092 of 2025

petitioner may not be required for the investigating agency. Further the petitioner has permanent residence and deep roots in the society. Hence, there is less possibility of absconding. Considering the same and also considering the cumulative facts and circumstances of the case and with a view to give an opportunity to the petitioner to reform himself, this Court does incline to grant an order of pre-arrest bail to the petitioner, however subject to the following conditions:

(i) The petitioner shall be released on pre-arrest bail in the event of his arrest or in the event of his surrender before the learned Judicial Magistrate No.V, Madurai District, within a period of 15 days from the date on which the order copy is made ready, on executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) along with two sureties each for a like sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the satisfaction of the learned Judicial Magistrate No.V, Madurai District.

(ii) The sureties shall affix their photographs and left thumb impression in the Application for Suretyship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Judicial Magistrate shall obtain a copy of any one of identity proofs to ensure their identity.

(iii) The petitioner shall appear and sign before the respondent-police daily at



CRL.OP(MD).No.7092 of 2025

10.30 a.m. until further orders.

WEB COPY

(iv) The petitioner shall make himself available for interrogation by a police officer as and when required.

(v) The petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

(vi) The petitioner shall also not, directly or indirectly, cause any threat to the defacto complainant and witnesses and shall not tamper the evidence.

(vii) The petitioner shall not leave India without the previous permission of the Court.

(viii) The petitioner shall furnish his residential address and mobile number to the concerned Magistrate.

(ix) On breach of any of the aforementioned conditions, the learned Judicial Magistrate or Trial Court, as the case may be, is entitled to pass appropriate orders against the petitioner in accordance with law as if the aforementioned conditions are imposed by him as laid down by the Hon'ble Supreme Court in *P.K. Shaji vs. State of Kerala* [(2005) 13 SCC 283].



CRL.OP(MD).No.7092 of 2025

8. Accordingly, this Criminal Original Petition is allowed subject to the conditions stated *supra*.

sd/-
21/04/2025

/ TRUE COPY /

/05/2025
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

pal
To

- 1.The Judicial Magistrate No.V, Madurai District.
 - 2.Do through the Chief Judicial Magistrate, Madurai.
 - 3.The Inspector of Police,Thideernagar Police Station, Madurai City.
 - 4.The Additional Public Prosecutor,Madurai Bench of Madras High Court,Madurai.
- +1 CC to M/s.KANNAN GURUSAMI, Advocate (SR-4587[I] dated 23/04/2025)

ORDER IN
CRL OP(MD) No.7092 of 2025
Date :21/04/2025

PP/27.05.2025 6P/6C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023