



WEB COPY

CRL OP No. 119 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-01-2026

CORAM

THE HON'BLE MR JUSTICE A.D.JAGADISH CHANDIRA

CRL OP No. 119 of 2026

M/s. Agaram Recreation Club,
Represented by its Secretary, Mr.S.Harichandran,
aged 35 years, No.20, Old No.128 Chamiers Road,
Nandanam, Chennai-600035.

..Petitioner(s)

Vs

1. The Assistant Commissioner of Police
(Saidapet Range) Chennai-600015.
2. The Inspector of Police J-1, Saidapet Police
Station, Chennai-600015.

..Respondent(s)

Criminal Original Petition is filed under Section 528 of Bharatiya
Nagarik Suraksha Sanhita to direct the respondents not to harass the Petitioner
and their Staff in relation to the running of their Restaurant Cum Bar Premise
namely No Name along with Herbal Hookah Services (without any content or
trace of Tobacco and Nicotine) at No.20, Old No.128 Chamier Road,
Nandanam Chennai-600 035.

For Petitioner : Ms.S.Shanmitha

For Respondents : Mr.S.Santhosh
Government Advocate (Criminal Side)



ORDER

WEB COPY This criminal original petition has been filed seeking to direct the respondents not to harass the Petitioner and their Staff in relation to the running of their Restaurant-Cum-Bar premises namely No Name along with Herbal Hookah Services (without any content or trace of Tobacco and Nicotine) at No.20, Old No.128, Chamier Road, Nandanam, Chennai-600 035.

2. The case of the petitioner is that the petitioner is carrying on Restaurant and Bar business in the name and style of “No name” at No.20, Old No.128 Chamier Roads, Nandanam, Chennai-600 035, after obtaining necessary licences from the competent authorities and the petitioner resto bar has a separate smoking area for serving herbal flavour hookah, without any content or trace of Tobacco/Nicotine, in compliance with the requirements contemplated under the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (in short “COTPA”). While so, the respondent police are repeatedly causing an unrest in the petitioner restaurant and directing the petitioner not to serve herbal hookah to the customers. Aggrieved by the said action of the respondents, the petitioner has come up with the present petition.



3. Learned Government Advocate (Crl. Side) appearing on behalf of the respondents submitted that a similar issue has already been considered by a Co-ordinate Bench of this Court in W.P.Crl.No.560 of 2025, wherein, vide order dated 19.08.2025, a direction was given to the petitioner therein to approach the FSSAI Authorities to prove that the products do not contain tobacco. He would further submit that there are no complaints as on date.

4. This Court perused the order passed in W.P.Crl.No.560 of 2025, wherein, it has been held as under:~

“7. It is the consistent stand of the respondents that they are not disturbing the petitioner in running the restaurant. If the petitioner is of the view that his products do not contain any tobacco or nicotine, it is for the petitioner to satisfy the competent Authorities particularly Food Safety and Standards Authority of India (FSSAI).

8. In this regard, by way of amendment brought by the State Government under L.A.Bill No.57 of 2022, Section 4A was introduced, which prohibits hookah bars. Therefore, whether the petitioner-s hookah contains tobacco or not is an issue that has to be determined by the competent authority.

9. On considering the provisions of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 and Food Safety and Standards Act, if the product used in the hookah is tobacco containing nicotine, it will fall under the COTPA Act. Otherwise also the inhalation of a



smoke derived from any product other than tobacco containing nicotine, it will fall within the definition of food under Section 2(za) of the Food Safety and Standards Act. Therefore, if at all the petitioner herein wants to run an enclosed zone for herbal hookah, first of all, he has to satisfy that his trade is not in a public place which includes restaurant and does not fall under the prohibition of Cigarettes and Other Tobacco Products Act.

10. He cannot use tobacco or any product containing nicotine, in view of the prohibition under Section 4(A) of the COTPA Act, and in case if we want to use any other product other than product containing nicotine and claims it to be a herbal product, it must be in satisfaction with the provisions of Food Safety and Standards Act, 2006.

11. Accordingly, the petitioner is directed to approach FSSAI Authorities and place before them all the ingredients used in the preparation of hookah in his premises. The Food Safety Officer may draw samples and send them to a laboratory for testing. If it is satisfied that the products do not contain any tobacco or nicotine, the petitioner is at liberty to continue his business in respect of running of the hookah bar.

12. Insofar as the running of the restaurant is concerned, the respondent shall not interfere with the petitioner-s business. However, it is made clear that the respondents Police are at liberty to take action if any illegal activities are found to be carried on in the petitioner-s premises.”



5. The aforesaid decision is squarely applicable to the facts of the present case. Accordingly, applying the ratio laid down in the above case, this Court directs the petitioner to approach the FSSAI Authorities and place before them all the ingredients used in the preparation of hookah in its premises and the Food Safety Officer may draw samples and send them to a laboratory for testing. If it is satisfied that the products do not contain any tobacco or nicotine, the petitioner is at liberty to continue its business in respect of running of the hookah bar and the respondent officials shall not interfere with the petitioner's business. However, it is made clear that the respondent Police are at liberty to take action, if any illegal activities are found to be carried on in the petitioner's premises.

6. With the above directions, this criminal original petition stands disposed of.

08-01-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

MRN



A.D.JAGADISH CHANDIRA, J.

MRN

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To

1. The Assistant Commissioner of Police
(Saidapet Range)Chennai-600015.
2. The Inspector of Police,
J-1, Saidapet Police Station,
Chennai-600015.
3. The Public Prosecutor,
High Court of Madras.

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