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**(2023) 11 MAD CK 0140**

**Madras High Court (Madurai Bench)**

**Case No:** Criminal Original Petition (MD) No. 20909 Of 2023

Vicky @ Vigneshwaran

APPELLANT

Vs

State

RESPONDENT

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**Date of Decision:** Nov. 21, 2023

**Acts Referred:**

- Indian Penal Code, 1860 - Section 229A, 328
- Cigarettes And Other Tobacco Products (Prohibition Of Advertisement And Regulation Of Trade And Commerce, Production, Supply And Distribution) Act, 2003 - Section 6(b), 24(1)

**Hon'ble Judges:** V. Sivagnanam, J

**Bench:** Single Bench

**Advocate:** M.Solaisamy, R.M.S.Sethuraman

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**Judgement**

V. Sivagnanam, J

1. The petitioner/sole accused, who was arrested and remanded to judicial custody on 15.10.2023 for the alleged offence punishable under Sections 328 of Indian Penal Code, 1860 &mdash; Section 6(b),24(1) of Cigarette and Other Tobacco Products Act in Crime No.134of 2023, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner was found in illegal possession of 11.475kgs of banned tobacco products. Hence the case.

3.The learned counsel appearing for the petitioner would contend that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. He would further submit that the petitioner is in custody from 15.10.2023, hence he seeks bail.

4.The learned Additional Public Prosecutor appearing for the respondent Police would submit that the petitioner was found in illegal possession of 11.475kgs of

banned tobacco products hence he objected to grant bail to the petitioner.

5. Considering the facts and circumstances of the case and also considering the period of incarceration and taking into consideration of the principle stated by the Honourable Supreme Court in Sanjay Chandra and others vs. CBI reported in (2012)1 SCC 40, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

[i] Accordingly, the petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Srivilliputhur and on further conditions that:

(ii) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

(iii) the petitioner shall appear before the trial Court on receipt of summons; (iv) the petitioner shall not tamper with evidence or witness;

(v) the petitioner shall not abscond during trial.

(vi) 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].

(vii) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.