

(2024) 04 MAD CK 0030**Madras High Court****Case No:** Criminal Original Petition No. 8282 Of 2024

Thangapandian

APPELLANT

Vs

State

RESPONDENT

Date of Decision: April 3, 2024**Acts Referred:**

- Indian Penal Code, 1860 - Section 229A, 272, 273, 328
- Cigarettes And Other Tobacco Products (Prohibition Of Advertisement And Regulation Of Trade And Commerce, Production, Supply And Distribution) Act, 2003 - Section 20(i)
- Juvenile Justice (Care And Protection Of Children) Act, 2015 - Section 77
- Tamil Nadu Prohibition Of Smoking And Spitting Act, 2003 - Section 7, 9(ii)

Hon'ble Judges: T.V.Thamilselvi, J**Bench:** Single Bench**Advocate:** M.Sureshkumar, V.Meganathan**Judgement**

T.V.Thamilselvi, J

1. The petitioner, who was arrested and remanded to judicial custody on 16.03.2024 for the alleged offence under Sections 272, 273 & 328 of I.P.C. and Sec.20(i) of Cigarette and other Tobacco Products Act, 2003 and Sec.77 of The Juvenile Justice (Care and Protection of Children) Act, 2015 and Sec.7 & 9 (ii) of Tamil Nadu Prohibition of Smoking and Spitting Act, 2003 in Crime No.74 of 2024 on the file of the respondent police, seeks bail.

2. The case of prosecution is that on 15.03.2024, while the respondent police and other police personnel were on routine vehicle check up, they have intercepted the petitioner's vehicle, but on seeing them, they tried to escape from the place and they caught hold of them. On search, they said to have found that the petitioner along with other accused have carried banned tobacco products illegally without any valid license for the purpose of selling the same and they said to have recovered

300 grams of banned tobacco products and the same was seized by them. Hence, the complaint was registered against the petitioner.

3. The learned counsel appearing for petitioner submitted that he has an innocent person, he is no way connected with the offence and he has not committed any of offence as alleged by the respondent police. He would also submit that he has been falsely implicated in this case and he will abide by any condition that may be imposed by this court. He would also submit that the petitioner has been suffering incarceration for more than 17 days from 16.03.2024 and no previous case pending against him. On instruction, he would further submit that without prejudice to his right and contentions, he is prepared to deposit/pay some considerable amount. Hence, he prayed to grant bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for respondent would submit that while the respondent police were on their patrol duty, they intercepted the petitioner's vehicle and on search, they found that the petitioner along with other accused were involved in selling prohibited tobacco products. He would submit that totally, two accused are involved in this case and he is arrayed as A1. He would also submit that if he is released on bail, he would hamper the investigation and tamper the witnesses and the investigation is almost completed. However, he would vehemently opposed to grant bail to the petitioner.

5. Considering the facts and circumstances and the fact that the investigation is almost completed, no previous case pending against him and on considering the period of incarceration undergone by the petitioner from 16.03.2024 for more than 17 days, this Court is inclined to grant bail to the petitioner with certain conditions.

6. Accordingly, the petitioner is directed to deposit a sum of Rs.5,000/- (Rupees five thousand only) as non-refundable deposit to the credit of Madras High Court Advocates Clerks Welfare Association, High Court of Madras, Indian Bank, High Court Branch, S.B.A/c. No.484077244, IFSC.No.IDIB000M157, and on such deposit, the petitioner is ordered to be released on bail on executing separate bonds for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, in which one surety must be a blood surety for a like sum to the satisfaction of the learned XV Metropolitan Magistrate, George Town, Chennai, and on further conditions that::

(a) 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 on every Sunday at 10.30 a.m. for the period of three months.

(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]; and;

(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.