

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.3109 of 2021

1. Selvaraj
2. Patturaj

... Petitioners

Vs.

State of Tamilnadu
Rep by The Inspector of Police,
Kanathur Police Station,
Chengalpet District.
Crime No.37 of 2021.

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.37 of 2021 pending investigation on the file of the Respondent.

For Petitioner : Mr. K. Gajendiran

For Respondent : Mr.M. Prabavathy,
APP

ORDER

(The case has been heard through video conference)

Petitioners, who were arrested and remanded to judicial custody on 30.01.2021, for the offences punishable under Sections 7 r/w 20 (11) of COTPA Act and 328 of IPC in Crime No.37 of 2021 seeks bail.

2. Totally there are 10 accused in this case and the petitioners are A4 and A5. The allegation is that the petitioner herein were engaged in transporting 12 tonnes of banned Tobacco Products in 5 lorries and the lorries were seized by the respondent police. Hence, the complaint.

3. The learned counsel for the petitioners would submit that the petitioners are only drivers and they have been engaged only to transport the goods and after seizure only they know that the goods in the lorries are banned tobacco products. He would further submit that the main accused are the owners of the lorries and two of them were arrested and other persons were still absconding. Hence, he seeks bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent opposed the bail application stating that the petitioners are drivers of the lorries who helped to transport huge quantity i.e 12 tonnes of banned tobacco products. Hence, she opposed to grant bail to the petitioners.

5. I have considered the rival submissions and verified the case diary produced by the Investigation officer and perused the records.

6. Considering the said facts and circumstances of the case and the petitioners are only drivers and the main accused are the owners of the lorries were arrested, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) Accordingly, the petitioners are ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate-II, Alandhur and on further conditions that:

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) the petitioners shall report before the respondent police daily at 10.30 a.m. until further orders.

(d) the petitioners shall not commit any offences of similar nature;

(e) the petitioners shall not abscond either during investigation or trial;

(f) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(g) on breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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];

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

7. With the above directions, this Criminal Original Petition is ordered.

-sd/-
19/02/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE-II,
ALANDHUR.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KANATHUR POLICE STATION,
CHENGALPET DISTRICT.

5 THE OFFICER INCHARGE
DISTRICT JAIL, CHENGALPATTU

6 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI, CHENNAI.

+1 CC to M/S.K.GAJENDIRAN Advocate on payment of necessary charges SR.NO.1948

CRL OP.3109/2021

Date :19/02/2021

TA-22/02/2021

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