



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.17737 of 2021

1.Mohammed Abdul Saleem  
2.Dheelip @ Dilip Rawat

... Petitioners

Vs.

The State of Tamil Nadu  
Rep by The Inspector of Police,  
Omalur Police Station,  
Omalur, Salem District.

... Respondent

**PRAYER:** Criminal Original Petition has been filed under Section 439 of Cr.P.C, prayed to enlarge the petitioners on bail pending investigation in Crime No.686 of 2021 on the file of the respondent police.

For Petitioners : Mr.K.Selvaraj

For Respondent : Mr.A.Gopinath  
Government Advocate (Crl side)

#### ORDER

The petitioners who were arrested on 04.09.2021 and remanded to judicial custody for the offences under Sections 7, read with 20(1) of Cigarette and Other Tobacco Products Act, 2003 and Section 273 and 328 of IPC and Sections 52, and 59 of Food Safety and Standard Act, 2006, in Crime No.686 of 2021 on the file of the respondent police, seek bail.

2. The case of the prosecution is that the petitioners were found in illegal possession of banned tobacco products worth about of Rs.2,60,000/-. Hence, the complaint.

3. The learned counsel for the petitioners submitted that the petitioners are no way connected with the alleged offence and they have been falsely implicated in this case and the petitioners have been in jail from 04.09.2021. However, on instructions, the learned counsel further submitted that the petitioners, without prejudice their rights, on their own volition, are ready and willing to contribute a sum of Rs.50,000/- for the purpose of improving and maintaining the Government Schools. Therefore, he prays to grant bail to the petitioners.



4. The learned Government Advocate (Crl.Side) appearing for the respondent submits that there is no previous case pending as against the petitioners. However, he vehemently opposed for grant of bail to the petitioners.

5. Considering the period of incarceration suffered by the petitioners and there is no previous case pending as against the petitioner, this Court is inclined to grant bail to the petitioners with certain conditions:

6. Accordingly, the petitioners are ordered to be released on bail on their executing a separate 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, Omalur. and on further condition that:

(a) the petitioners shall make a non-refundable deposit of **Rs.50,000/- (Rupees Fifty Thousand only)** to the credit of the Chief Educational Officer, Salem District for the rehabilitation and improvement of the basic needs of the Government Schools in the said District under necessary acknowledgement, without prejudice to their defence before the trial Court and submit the proof of payment of the said amount before the aforesaid learned Judicial Magistrate, who after perusing the challan/ receipt/acknowledgement, shall accept the sureties furnished by the petitioners;

(b) 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;

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

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

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

(f) on breach of any of the aforesaid conditions, the learned 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]**; and;

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



7. In the result, this Criminal Original Petition is ordered and the Chief Educational Officer shall submit the necessary proof with regard to the expenditure incurred for the improvement/rehabilitation of the Schools in the District before the Director of School Education as and when such works are completed by utilising the money as ordered by this Court

-sd/-  
24/09/2021

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,  
OMALUR.

2 THE CHIEF JUDICIAL MAGISTRATE  
SALEM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,  
OMALUR POLICE STATION,  
OMALUR, SALEM DISTRICT.

5 THE SUPERINTENDENT,  
CENTRAL PRISON, SALEM.

6 THE CHIEF EDUCATIONAL OFFICER,  
SALEM DISTRICT.

+1 CC to M/S. K.SELVARAJ Advocate on payment of necessary charges SR.NO.10569

CRL OP.17737/2021

Date :24/09/2021

TA-27/09/2021