



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2021

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.22957 of 2021

1.Balasubramanian
2.Murugan

...Petitioners

Vs.

The State Rep. By
Inspector of Police,
Pollachi East Police Station,
Coimbatore.
Crime No.630 of 2021

...Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to enlarge the petitioners on bail in Crime No.630 of 2021 on the file of the respondent police.

For Petitioners : Mr.Deepan Uday

For Respondent : Mr.N.S.Suganthan
Government Advocate (Crl. Side)

ORDER

(The case has been heard through video conference)

The petitioners who were arrested and remanded to judicial custody on 14.11.2021 for the offences under Sections 6 and 24(1) of Cigarette and other tobacco products Act r/w 328 of IPC, in Crime No.630 of 2021, on the file of the respondent police, seek bail.

2. The case of the prosecution is that on 14.11.2021, when the respondent police officials were on patrol duty, the petitioners were found in possession of 35 large bags containing each 15 small packets of Hans Chaap, 42 large bags containing each 26 small packets of Ganesh 701 and 62 large bags containing each 11 small packets of Swagat Gold and 50 large bags containing each 12 small packets of Cool Lip. Hence the complaint.



3. The learned counsel for the petitioners would submit that the petitioners have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case and the petitioners have been suffering incarceration for more than 20 days from 14.11.2021. He would further submit that the petitioners are ready and willing to pay a sum of Rs.20,000/- to any Charitable Institute as may be directed by this Court and he would pray for grant of bail to the petitioners.

4. The learned Government Advocate raised objection stating that the petitioners were found in possession of 55 kgs of banned tobacco products worth about Rs.40,000/- and the investigation has been almost completed.

5. Considering the submission made by the learned counsel for the petitioners, this Court is of the opinion that the petitioners shall be directed to make a non refundable deposit of Rs.20,000/- (Rupees Twenty Thousand Only), to the credit of the Tamil Nadu Legal Services Authority, Chennai, without prejudice to his rights and contentions. The amount so deposited shall be utilised by the Authority for the welfare of the poor litigants.

6. It is made clear that the deposit of the amount by the petitioners to the said Authority would not amount to admission of guilt. The trial Court shall deal with the case independently on merits without reference to the amount deposited at the stage of bail.

7. Considering the period of incarceration undergone by the petitioners and that the investigation has almost completed, this Court is inclined to grant bail to the petitioners with certain conditions.

8. Accordingly, the petitioners is 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 I, Pollachi, and on further conditions that:

(a) the petitioners shall make non-refundable deposit a sum of Rs.20,000/- (Rupees Twenty Thousand Only) through demand draft to the Tamil Nadu Legal Services Authority, Chennai, without prejudice to their defence before the trial Court and the learned Judicial Magistrate, after perusing the challan/ receipt, 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 on every Sunday 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.

-sd/-
07/12/2021

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,
NO.I, POLLACHI, COIMBATORE DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE DISTRICT. [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL JAIL, COIMBATORE.

4 THE INSPECTOR OF POLICE,
POLLACHI EAST POLICE STATION,
COIMBATORE.



5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE SECRETARY,
TAMIL NADU LEGAL SERVICES AUTHORITY
HIGH COURT, MADRAS.

CC to M/S. DEEPANUDAY Advocate on payment of necessary charges

CRL OP.22957/2021

Date :07/12/2021

RW 08/12/2021