



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2022

CORAM:

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

Crl.O.P.No.1820 & 1821 of 2022

1.Manikandan ... Petitioner in Crl.O.P.No. 1820 of 2022
2.Umaram ... Petitioner in Crl.O.P.No. 1821 of 2022

Vs.

State rep. by
The Sub-Inspector of Police,
Mallur Police Station,
Salem District.
(Crime No. 447 of 2021) ... Respondent in Crl.O.P.No. 1820 of 2022

State rep. by
The Inspector of Police,
Mallur Police Station,
Salem District.
(Crime No. 447 of 2021) ... Respondent in Crl.O.P.No. 1821 of 2022

PRAYER both the Crl.O.Ps.: Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to enlarge the petitioners on bail, in Crime No. 447 of 2021, on the file of the Respondent police.

For Petitioner in Crl.O.P.No.1820 of 2022 : M/s. R.Nalliyappan

For Petitioner in Crl.O.P.No.1821 of 2022 : M/s.S.V.Karthikeyan

For Respondent in both Crl.O.Ps. : 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 05.12.2021 for the offences under Section 328 of IPC and Sections 7 and 20(1) of Cigarette and other Tobacco Product Act 2003, in Crime No. 447 of 2021, on the file of the respondent police, seek bail.



2. The case of the prosecution is that on 05.12.2022, the petitioners were found in illegal possession of 870 packets of banned Tobacco Products worth about Rs.82,080/-. 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 a false case has been foisted against them. He would further submit that the petitioners have been suffering incarceration for 55 days from 05.12.2021 and A3 has been granted anticipatory bail by this Court. Hence, he would pray for grant of bail to the petitioners.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would raise objection stating that there are totally 3 accused in this case and the petitioners are arrayed as A1 and A2 but admits that the investigation is almost completed and there is no previous case against the petitioners.

5. Considering the fact that there is no previous case against the petitioners and the investigation is almost completed and also considering the period of incarceration undergone by the petitioners, this Court is inclined to grant bail to the petitioners with certain conditions.

(a) Accordingly, the petitioners are ordered to be released on bail on executing their own bonds for a sum of Rs.10,000/- (Rupees ten thousand only), before the Superintendent of the concerned prison, in which the petitioners have been confined and thereafter on their release;

(b) each of the petitioners shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, before the learned Judicial Magistrate No.VI Salem, within 15 days from the date of commencement of the Court's normal functioning, failing which the bail granted by this Court shall stand dismissed automatically;

(c) 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;

(d) the petitioners shall report before the respondent police on every Tuesday at 10.30 a.m. until further orders.



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

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

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

(h) 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];

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

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

-sd/-
28/01/2022

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.VI, SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION].

3 THE SUB - INSPECTOR OF POLICE,
MALLUR POLICE STATION,
SALEM DISTRICT.

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

5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S. R.NALLIYAPPAN Advocate on payment of necessary
charges SR.NO.1314

CRL OP.1820 & 1821/2022

Date :28/01/2022

JPA 31/01/2022