



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Cr1.O.P. No.3255 of 2022

1.Suresh

2.Maniraman

... Petitioners / A-1 & A-2

versus

State rep. by

The Inspector of Police

Hosur Town Police Station,

Krishnagiri District.

(Crime No.71 of 2022)

... Respondent / Complainant

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C., praying to enlarge the petitioners on bail pending investigation in Crime No.71 of 2022 on the file of the respondent police.

For petitioners : Mr.M.Jayachandran

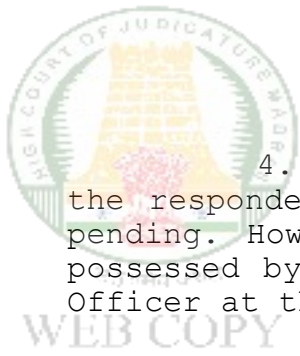
For Respondent : Mrs.G.V.Kasthuri
Additional Public Prosecutor

O R D E R

The petitioners, who were arrested and remanded to judicial custody on 26.01.2022 for an offence punishable under Section 328 of IPC r/w. 6 and 20(1) of COTPA Act 2003 in Crime No.71 of 2022, on the file of the respondent police, seek bail.

2. The case of the prosecution is that on 26.01.2022, the petitioners were found in illegal possession of banned tobacco products viz. 65.28 Kgs Gutka. Hence, the complaint.

3. The learned counsel appearing for the petitioners would submit that the petitioner are innocent persons and they have been falsely implicated in this case. He would further submit that the petitioners are in judicial custody from 26.01.2022 onwards. On instructions he further submits that without prejudice to their defence and contentions, the petitioners on their own volition, are willing to contribute a sum of Rs.5,000/- each for the purpose of improving and maintaining the Government Schools. Accordingly, he prays for bail.



4. The learned Additional Public Prosecutor appearing for the respondent police raised objection stating that investigation is pending. However, she fairly admits that, the contraband, which was possessed by the petitioners, are all recovered by the Investigation Officer at the time of securing the petitioners.

5. Considered the submissions made by the learned counsel appearing on either side. The respondent police registered a case as against the petitioner for the offences punishable under Section 328 of IPC r/w. 6 and 20(1) of Cigarette and Other Tobacco Products Act, 2003 and as of now, the material objects (contraband), which is necessary for completing the investigation, are all recovered by the respondent police. Since the present case has been registered for the above said offence, being the reason that the contraband has also been recovered, further custody of the petitioners are not necessary.

6. Therefore, taking note of the above said aspects into consideration and having regard to the nature of offence committed by the petitioners and also the fact that the petitioners have willfully and on their own volition agreed to contribute a sum of Rs.5,000/- each for charitable purpose, this Court is inclined to grant bail to the petitioners subject to certain conditions.

7. Accordingly, the petitioners are ordered to be released on bail subject to the following conditions;

(a) Each of the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, No. II, Hosur;

(b) The petitioners shall make a non-refundable deposit of Rs.5,000/- to the credit of " The Chief Educational Officer, Krishnagiri District, for the rehabilitation and improvement of the basic needs of the Government Schools in the said District under necessary acknowledgment without prejudice to their defence before the trial court and submit proof of payment of the said amount before the aforesaid learned Judicial Magistrate, who after perusing the receipt/acknowledgment shall accept the sureties furnished by the petitioners ;

(c) the petitioners and 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 are directed to appear before the respondent police daily at 10.00 a.m. until further orders;



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

(f) 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];

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

8. 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/-

24/02/2022

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.II, HOSUR

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI (FOR INFORMATION)

3 THE OFFICER INCHARGE,
SUB JAIL, HOSUR

4 THE INSPECTOR OF POLICE,
HOSUR TOWN POLICE STATION,
KRISHNAGIRI DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.



6 THE CHIEF EDUCATIONAL OFFICER
KRISHNAGIRI DISTRICT

CC to M.JAYACHANDRAN Advocate on payment of necessary charges

CRL OP.3255/2022

Date :24/02/2022

RVR 25/02/2022