



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2022

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

Cr1.O.P.No.3375 of 2022

1.Vikram Kumar Singh
2.Sudheswar Kumar Sharman ... Petitioners

Vs.

State rep. by
The Inspector of Police
F1 Chindadripet Police Station,
Chennai
(Crime No.24 of 2022) ... Respondent

PRAYER:

Criminal Original Petition has been filed under Section 439 of Criminal Procedure Code, 1973 praying to enlarge the petitioners on bail pending investigation in Crime No.24 of 2022 on the file of the respondent police.

For Petitioners : Mr.N.Suresh

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

ORDER

(The case has been heard through video conference)

The petitioners who were arrested and remanded to judicial custody on 30.01.2022 for the offences under Sections 120(b), 353, 328 of IPC and 20(2), 7(3) of Cigarette and Other Tobacco Products Act, 2003 in Crime No.24 of 2022, on the file of the respondent police, seek bail.

2. The case of the prosecution is that during vehicle check up by the Election duty - Flying Squad Zone 5, these petitioners were found in possession of 55 large boxes of foreign cigarettes (totally 2725 cigarettes). Hence the complaint.



3. The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. He would further submit that the petitioners are working as driver and cleaner respectively in the lorry which have been used for transporting prohibited tobacco products. According to him, the petitioners are in the judicial custody from 31.01.2022 onwards. Hence, he prays for bail.

4. M/s.G.V.Kasthuri, learned Additional Public Prosecutor appearing for the respondent police raised objection stating that during the relevant point of time, the petitioners transported the banned tobacco in TATA ACE bearing registration No.TN 06 X 5529. Further, the petitioners are belongs to State of Jharkhand and therefore if the petitioners are released on bail, they may try to tamper the witness and hamper the investigation.

5. The submissions made by the learned Counsel on either side are considered.

6. The respondent police registered a case against the petitioners for the offence punishable under Sections 120(b), 353, 328 of IPC and 20(2), 7(3) of Cigarette and Other Tobacco Products Act, 2003. As of now, the property alleged to be transported without licence was recovered and the same is in the custody of the respondent police. Though the petitioners are belongs to the State of Jharkhand, the said ground cannot be taken into account as they are also citizens of India. Therefore, being the reason that the alleged contraband was recovered by the police and also due to the reason that the petitioners are in judicial custody from 30.01.2022, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) the petitioners are ordered to be released on bail to execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) (each) with two sureties each for a like sum to the satisfaction of the learned XIII Metropolitan Magistrate, Egmore, Chennai

(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 10.00 a.m. until further orders.



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

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(e) 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 themselves as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560];

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

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

-sd/-
15/02/2022

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 METROPOLITAN MAGISTRATE,
NO.XIII, EGMORE, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION].

3 THE INSPECTOR OF POLICE,
F1 CHINDADRIPET POLICE STATION,
CHENNAI.



4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+3 CC to M/S.N.SURESH Advocate on payment of necessary charges
SR.NO.2318

CRL OP.3375/2022

Date :15/02/2022

JPA 16/02/2022