



Crl.O.P.No.22651 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2022

CORAM

THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.O.P.No.22651 of 2022

1. Kailash

2. Chhanganram

... Petitioners

Vs.

The State represented by,
The Inspector of Police,
Roshanai Police Station
Chennai.

(Crime No.246/2022).

... Respondent

PRAYER: Criminal Original Petitions filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioners on bail pending investigation in connection
with the Crime No.246 of 2022 on the file of the respondent.

For Petitioners : Mr.M.Mohamed Riyas

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl.Side)

ORDER

The petitioners, who were arrested and remanded to judicial



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custody on 31.08.2022 for the offences punishable under Section 328 of IPC and Section 24(1) of Cigarette and other Tobacco Products Acts, 2003, and under Sections 4(1)(a), 4(1-A), 14A of TN Prohibition Act, in Crime No.246 of 2022 on the file of the respondent police, seek bail.

2. The case of the prosecution is that on 31.08.2022, while the respondent Police and his team were on routine rounds, the petitioners along with the other were found in possession of banned tobacco products, worth about rupees three lakhs. Hence the complaint.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. He would also submit that without prejudice, the petitioners are prepared to deposit the value of the contraband to any welfare scheme of the Government and hence, he prays for grant of bail to the petitioners.

4. The Government Advocate (Crl.Side) appearing for the respondent police submitted that on 31.08.2022, when the respondent Police



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and his team were on routine rounds, the petitioners was found in illegal possession of banned tobacco products, worth about Rs.3,00,000/-. He would further submit that there is no previous cases as against these petitioners. Therefore, he vehemently opposed to grant bail to the petitioners.

5. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.Side) and perused the materials available on record.

6. In order to curb the illegal activities of smuggling of tobacco products, this Court is of the opinion that the petitioners shall jointly deposit a sum of Rs.3,00,000/- (Rupees Three Lakhs only) as a non refundable deposit to "The Dean, Rajiv Gandhi Government General Hospital, Chennai", without prejudice to their rights and contentions before the trial Court.

7. Merely, because the petitioners have deposited the said amount, it would not amount to admission of their guilt. Therefore, it is open to the trial Court to deal with the case independently.

8. Taking into consideration the facts of the case and the



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submissions made by the learned counsel and also taking note of the fact that the petitioners are prepared to deposit Rs.3,00,000/- jointly to any welfare scheme of the Government, this Court is inclined to grant bail to the petitioners with certain conditions.

9. Accordingly, the petitioners are ordered to be released on bail on condition to make a non refundable deposit of **Rs.3,00,000/- (Rupees Three lakhs only) jointly by way of Demand Draft/RTGS/NEFT to the "The Dean, Rajiv Gandhi Government General Hospital, Chennai"** without prejudice to their rights and contentions before the trial Court, on such deposit and production of proof, the petitioners are ordered to be released on bail on their executing a separate bond for a sum of **Rs.25,000/- (Rupees Twenty Five thousand only)** each with **two sureties**, for a like sum to the satisfaction of the **learned Judicial Magistrate Court-I, Dindivanam** and on further conditions that:

[a] 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;

[b] the petitioners shall report before the respondent Police daily at 10.30 a.m., until further



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orders;

[c] the petitioners shall not abscond either during investigation or trial;

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial;

[e] 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]*;

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

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To

1. The Judicial Magistrate - I,
Dindivanam.
2. The Inspector of Police,
Roshanai Police Station,
Chennai.
3. The Sub Jail,
Dindivanam.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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