



Crl.O.P.No.23586 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2022

CORAM

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

Crl.O.P.No.23586 of 2022

1. Mohamed Hasan
2. Mohamed Mansoor

... Petitioners

Vs.

The State represented by,
The Inspector of Police,
Thally Police Station,
Krishnagiri District.
(Crime No.237 of 2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to grant bail to the petitioners pending investigation in Crime No.237
of 2022, on the file of the respondent Police.

For Petitioners : Mr.P.M.Jayachandran

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



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ORDER

The petitioners, who were arrested and remanded to judicial custody on 16.09.2022, for the offences punishable under Section 328 of IPC and Section 6 r/w 20(1) of Cigarette and Other Tobacco Products Act, 2003, in Crime No.237 of 2022 on the file of the respondent police, seek bail.

2. The case of the prosecution is that on 16.09.2022, when the respondent Police and his team were on routine vehicle checkup, the petitioners were found in illegal transportation of 172.536 kgs of banned tobacco products, worth about Rs.2,00,000/-. 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 to their contentions, the petitioners are prepared to deposit a sum of Rs.75,000/- each to any welfare scheme of the Government and hence, he prays for grant of bail to the petitioners.



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4. The Government Advocate (Crl.Side) appearing for the respondent police would submit that on 16.09.2022, when the respondent Police and his team were on routine vehicle checkup, the petitioners were found in illegal transportation of 172.536 kgs of banned tobacco products, worth about Rs.2,00,000/-. He would further submit that there are no previous cases as against the petitioners. However, 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 deposit a sum of **Rs.75,000/- (Rupees Seventy Five Thousand only)** each, as a non refundable deposit to **"The Dean/Medical Officer, The Government Dharmapuri Medical College and Hospital, Dharmapuri District"**,



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without prejudice to their rights and contentions before the trial Court.

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.

7. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsel and also taking note of the fact that the petitioners are prepared to deposit **Rs.75,000/-** each, to any welfare scheme of the Government, this Court is inclined to grant bail to the petitioners with certain conditions.

8. Accordingly, the petitioners are ordered to be released on bail on condition to make a non refundable deposit of **Rs.75,000/- (Rupees Seventy Five Thousand only)** each, by way of Demand Draft/RTGS/NEFT to **"The Dean/Medical Officer, The Government Dharmapuri Medical College and Hospital, Dharmapuri District"**, 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



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on their executing a separate 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 Judicial Magistrate, Denkanikottai**, 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 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]*;



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[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,
Denkanikottai.
2. The Inspector of Police,
Thally Police Station,
Krishnagiri District.
3. The Superintendent,
Sub Jail,
Hosur.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA., J.

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