



Crl.O.P.No.24684 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2022

CORAM

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

Crl.O.P.No.24684 of 2022

1. Neethimozhi
2. Murugesan

... Petitioners

Vs.

State rep by
Inspector of Police,
Thirumanur Police Station,
Ariyalur District.
(Crime No.165 of 2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioners on bail in Crime No.165 of 2022 pending
investigation on the file of the respondent police.

For Petitioners : Mr.K.Selvakumaraswami

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 25.09.2022, for the offences punishable under Section 328 of IPC and Section 6, 9(ii) of TN Prohibition of Smoking & Spitting Act, 2003 r/w Section 24(1) of Cigarette and Other Tobacco Products Act, 2003, in Crime No.165 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioners along with the other accused were found in possession of banned tobacco products worth about Rs.10, 00,000/-. Hence, the complaint.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent and a false complaint has been registered as against the petitioners. He would also submit that even as per the prosecution, an amount of Rs.4,00,000/- is stated to have been recovered from the accused. Therefore, he prays for grant of bail to the petitioners.

4. The learned Government Advocate (Crl.Side) appearing for the



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respondent police would submit that the petitioners along with the other accused were found in possession of banned tobacco products worth about Rs.10,00,000/-. He would further submit that a sum of Rs.4,00,000/- has been recovered at the time of the registration of the case. He would also submit that as far as the 1st petitioner is concerned, he has been detained under Act 14, pursuant to the order passed by the District Collector, Ariyalur District vide Cr.M.P.No.31 of 2022, dated 13.10.2022. Hence, he vehemently opposed to grant bail to the petitioners.

5. At this juncture, learned counsel appearing for the petitioners would submit that without prejudice to his contentions, the 2nd petitioner is prepared to deposit a sum of Rs.2,00,000/- to any welfare scheme of the Government. Therefore, he prays for grant of bail to the 2nd petitioner.

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



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7. In order to curb the illegal activities of smuggling of tobacco products, this Court is of the opinion that the 2nd petitioner shall deposit a sum of **Rs.2,00,000/- (Rupees Two Lakhs only)** as a non refundable deposit to **"The Dean/Medical Officer, Government District Headquarters Hospital, Ariyalur District,"** without prejudice to his rights and contentions before the trial Court. Merely, because the 2nd petitioner has deposited the said amount, it would not amount to admission of his 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 submissions made by the learned counsel and also taking note of the fact that the 2nd petitioner is prepared to deposit **Rs.2,00,000/-** to any welfare scheme of the Government, this Court is inclined to grant bail to the 2nd petitioner with certain conditions.

9. Accordingly, the bail application in respect of the 1st petitioner is dismissed, since he has been detained under Act 14, pursuant to the order passed by the District Collector, Ariyalur District vide Cr.M.P.No.31 of



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2022, dated 13.10.2022 and the 2nd petitioner is ordered to be released on bail on condition to make a non refundable deposit of **Rs.2,00,000/- (Rupees Two Lakhs only)** by way of Demand Draft/RTGS/NEFT to "The Dean/Medical Officer, Government District Headquarters Hospital, Ariyalur District", without prejudice to his rights and contentions before the trial Court, on such deposit and production of proof, the 2nd petitioner is ordered to be released on bail on his executing 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 Court No.II, Ariyalur**, 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 2nd petitioner shall report before the respondent Police daily at 10.30 a.m., until further orders;

[c] the 2nd petitioner shall not abscond either during investigation or trial;

[d] the 2nd petitioner shall not tamper with



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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 2nd petitioner in accordance with law as if the conditions have been imposed and the 2nd petitioner 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.

14.10.2022

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To

1. The Judicial Magistrate No.II, Ariyalur.
2. The Inspector of Police,
Thirumanur Police Station,
Ariyalur District.
3. The Sub Jail,
Ariyalur.
4. The Public Prosecutor,
High Court of Madras.

A.D.JAGADISH CHANDIRA., J.



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