



Crl.O.P.No.25056 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2022

CORAM

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

Crl.O.P.No.25056 of 2022

1. Majibur Rahman
2. Ejad Ali

... Petitioners

Vs.

State : represented by
Sub Inspector of Police,
Sunguvarchattiram Police Station,
Kanchipuram District.
Crime No.445 of 2022

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to release the petitioners/Accused on bail, in crime No.445 of 2022
pending investigation on the file of the Respondent police.

For Petitioner : Mr.T.Charles Kennedy

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



Crl.O.P.No.25056 of 2022

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ORDER

The petitioners, who were arrested and remanded to judicial custody on 13.08.2022, for the offences punishable under Section 24(1) of Cigarette and Other Tobacco Products Act, 2003 and Section 328 of IPC , in Crime No.445 of 2022, on the file of the respondent police, seek bail.

2. The case of the prosecution is that the petitioners were found in illegal possession of 38 Kgs of banned tobacco products worth about Rs.25,000/-. Hence, the complaint.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they are residents of Assam and they have travelled to Tamil Nadu and since, they were unable to understand the language, they have been falsely implicated in this case. He would also submit that there are no previous cases as against the petitioners. Therefore, he prays for grant of bail to the petitioners.



Crl.O.P.No.25056 of 2022

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4. The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that the petitioners are residents of Assam and they have illegally transported 38 Kgs of banned tobacco products worth about Rs.25,000/-. He would also submit that the petitioners do not have any permanent residence. Hence, he vehemently opposed to grant bail to the petitioners.

5. At this juncture, learned counsel appearing for the petitioners would submit that the petitioners are ready to produce local sureties and they are also prepared to deposit a sum of Rs.25,000/- each to any welfare scheme of the Government, without prejudice to their contentions. Therefore, he prays for grant of bail to the petitioners.

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



Crl.O.P.No.25056 of 2022

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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 petitioners shall deposit a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only) each**, as a non refundable deposit to "**The Dean/Medical Officer, Arignar Anna Memorial Cancer Hospital & Research Institute, Kancheepuram**", 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.

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 petitioners are prepared to deposit **Rs.25,000/- each**, to any welfare scheme of the Government, this Court is inclined to grant bail to the 1st petitioner with certain conditions.

9. Accordingly, petitioners are ordered to be released on bail on



Crl.O.P.No.25056 of 2022

condition to make a non refundable deposit of **Rs.25,000/- (Rupees Twenty Five Thousand only)** each, by way of Demand Draft/RTGS/NEFT to **"The Dean/Medical Officer, Arignar Anna Memorial Cancer Hospital & Research Institute, Kancheepuram"**, 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)** with **two sureties**, each for a like sum to the satisfaction of the **learned Judicial Magistrate, Sriperumbudur**, 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,



Crl.O.P.No.25056 of 2022

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.

17.10.2022

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To

1. The Judicial Magistrate, Sriperumbudur.
2. The Sub Inspector of Police,
Sunguvarchattiram Police Station,
Kanchipuram District.
3. The Central Prison, Puzhal.
4. The Public Prosecutor,
High Court of Madras.



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CrI.O.P.No.25056 of 2022

A.D.JAGADISH CHANDIRA., J.

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CrI.O.P.No. 25056 of 2022

17.10.2022