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Crl.OP.No.27771 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2022

CORAM

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

Crl.OP.No.27771 of 2022

1.Ajay Sathish
2.C.Senthil
3.K.Arul Kumar
4.M.Vignesh
5.M.Sathya

... Petitioners

Vs.

State Rep by
The Inspector of Police,
Anamalai Police Station,
Coimbatore District.
(Crime No.726 of 2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioners on bail concerned in Crime No.726 of 2022
pending on the file of the respondent police.

For Petitioners : Mr.M.N.Balakrishnan

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 17.10.2022 for the offences punishable under Sections 24(1) of Cigarette and Other Tobacco Products Act, 2003 and 328 of IPC in Crime No.726 of 2022 on the file of respondent police, seek bail.

2. The case of the prosecution is that the petitioners had illegally transported 1996 Kgs of banned Tobacco products, worth about Rs.9,50,000/-, in the vehicle bearing Registration No.TN 92 F 9901. Hence, the case.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have nothing to do with the alleged offence. He would submit that the first petitioner is the owner of the vehicle and the petitioners 2 to 5 are employees of the first petitioner. The employees are not aware of the contraband. He would submit that the petitioners have no previous cases pending against them. Therefore, he prays to grant bail to the petitioners.



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4. The learned Government Advocate (crl.side) appearing for the respondent would submit that the petitioners had illegally transported 996 Kgs of banned Tobacco products, worth about Rs.9,50,000/-. He would submit that the first petitioner is the owner of the vehicle and the contraband. The petitioners 2 to 5 are employees of the first petitioner. The petitioners have no other cases pending against them. However, he vehemently opposed to grant bail to the petitioners.

5. At this juncture, learned counsel for the petitioner would submit that without prejudice, the first petitioner is ready to deposit a sum of Rs. 1,00,000/- and the petitioners 2 to 5 are prepared to deposit a sum of Rs.75,000/- each, as a non refundable deposit to the credit of any welfare scheme of the Government.

6. Heard both the learned counsel and perused the materials available on record including the First Information Report.

7. In order to curb the illegal activities of smuggling of tobacco products, this Court is of the opinion that the first petitioner shall deposit a



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sum of Rs.1,00,000/-(Rupees One Lakh only) as a non refundable deposit and the petitioners 2 to 5 shall deposit a sum of Rs.75,000 (Rupees Seventy Five Thousand only) to the credit of the **Medical Officer, Government Hospital, Pollachi**, without prejudice to their rights and contentions before the trial Court.

8. 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.

9. 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 first petitioner is prepared to deposit Rs.1,00,000/- and the petitioners 2 to 5 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.



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10. Accordingly, the petitioners are ordered to be released on bail on condition that the **first petitioner shall make a non refundable deposit of Rs.1,00,000/- (Rupees One Lakh only)** and the **petitioners 2 to 5 shall make a non refundable deposit of Rs.75,000/-(Rupees Seventy Five Thousand)** each to the credit of the **Medical Officer, Government Hospital, Pollachi**, 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 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 No.I, Pollachi** 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 every day at 10.30 am until further orders;



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[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 learned Judicial Magistrate No.I, Pollachi
- 2.The Inspector of Police,
Anamalai Police Station,
Coimbatore District.
3. The Central Prison,
Coimbatore
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA,J.

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