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Crl.OP.No.28876 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2022

CORAM

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

Crl.OP.No.28876 of 2022

1.Johnshaju
2.Kavin
3.Arvindaraj

... Petitioners

Vs.

State by:
The Inspector of Police,
Palladam Police Station,
Tiruppur District 651 664.
(Crime No.1260/2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioners on bail in Crime No.1260 of 2022 pending
investigation before the respondent police.

For Petitioners : Mr.S.Ramesh

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 11.11.2022 for the offences punishable under Sections 273, 328 of IPC and 7(1), 20(2) of the Cigarettes and Other Tobacco Products Act, 2003 in Crime No.1260 of 2022 on the file of respondent police, seek bail.

2. The case of the prosecution as per the Inspector of Police is that on secret information, the respondent police have made a search on all the vehicle nearby Karanapettai Bus Stop. During the search, the respondent police have intercepted one lorry bearing Registration No. TN 34 AE 3503 where, the petitioners were found to be in possession of banned Tobacco products worth about Rs.25 Lakhs. 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 petitioners are driver and cleaners of the lorry and they are neither the owner of vehicle nor the owner of



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contraband. He would submit that the petitioners have no previous cases pending against them. Therefore, he prays to grant bail to the petitioners.

4. The learned Government Advocate (crl.side) appearing for the respondent would submit that the petitioner had illegally transported banned Tobacco products, worth about Rs.25,00,000/-, in the lorry bearing Registration No.TN 34 AE 3503. He would submit that there is no previous case pending against the petitioners. However, he vehemently opposed to grant bail to the petitioners.

5. At this juncture, learned counsel for the petitioners would submit that without prejudice, the petitioners are prepared to deposit a sum of Rs.1,00,000/- 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.



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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 petitioner shall deposit a sum of **Rs.1,00,000/-(Rupees One Lakh only) each** as a non refundable deposit and to the credit of the **Medical Officer, Government Hospital, Tiruppur**, without prejudice to their rights and contentions before the trial Court.

8. Merely, because the petitioners have deposit 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 petitioners are prepared to deposit Rs.1,00,000/- each to any welfare scheme of the Government, this Court is inclined to grant bail to the petitioners with certain conditions.

10. Accordingly, the petitioners are ordered to be released on bail on condition that the **petitioners shall make a non refundable deposit of**



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Rs.1,00,000/- (Rupees One Lakh only) each to the credit of the **Medical Officer, Government Hospital, Tiruppur**, 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, Palladam** 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;

[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;



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[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.

24.11.2022

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To

1. The learned Judicial Magistrate, Palladam
2. The Inspector of Police,
Palladam Police Station,
Tiruppur District 651 664.
3. The Sub Jail,
Palladam
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA,J.

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