



Crl.O.P.No. 30581 of 2022

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2022

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.30581 of 2022

1. Dhamodhar Kumar,
S/o. Budhan Mahto

2. Pramoth Kumar Modi,
S/o. Arjun Modi

.. Petitioners

Vs.

State represented by
The Inspector of Police,
R-2 Kodambakkam Police Station,
Chennai.
(Crime No.215 of 2022)

.. Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in Crime No.215 of 2022 on the file of respondent police.



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For Petitioner : Mr.R.Sadasivam
For Respondent : Mr.S.Vinoth Kumar
Govt. Advocate (Crl. Side)

ORDER

The petitioners, who were arrested and remanded to judicial custody on 18.10.2022 for the alleged offence under Sections 6(b) r/w 24(1) of Cigarette and Other Tobacco Products Act, 2003 (COTPA) Act, 2003 and 328 of I.P.C. in Crime No.215 of 2022 on the file of the respondent police, seek bail.

2. The case of the prosecution is that on 18.10.2022, based on the secret information, the respondent police conducted search at the premises bearing No.4.7, Kamarajar Colony, 7th Street, 2nd Floor and found that these petitioners said to have indulged in manufacturing Maava, which is a banned tobacco products by the State government and also indulged in selling the same near school and college campus. During inspection, the respondent police seized 6.600 kg. of banned tobacco products. Hence, the



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3. The learned counsel for the petitioners submitted that they have not at all committed any offence as alleged by the respondent police and they are no way connected with the offence. He would submit that they have been falsely implicated in this case for statistical purpose. He would further submit that the investigation is almost completed and that the petitioners have been suffering incarceration for more than 54 days from 18.10.2022. Hence, he prayed to grant bail to the petitioners.

4. The learned Government Advocate (Crl. Side) appearing for respondent would submit that totally, there are two accused involved in this case and there is no previous case pending against the petitioners. He would also submit that if they are released on bail, they will tamper the witnesses and hamper the investigation. Hence, he vehemently opposed to grant bail to the petitioners.



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5. Considering the fact that the investigation is almost completed, and considering the period of incarceration undergone by the petitioners, this Court is inclined to grant bail to the petitioners with certain conditions.

6. Accordingly, the petitioners are directed to **deposit a sum of Rs.10,000/- (Rupees Ten Thousand Only) each to the credit of Tamil Nadu Advocate Clerk Association, Chennai. Current Account No.484026006, IFSC No.IDIB000M157, Indian Bank, High Court Branch** and on such deposit, the petitioners are ordered to be released on bail on executing their separate bonds for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the *learned XVII Metropolitan Magistrate, Saidapet, Chennai*, 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;



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(b) the petitioners shall appear before the respondent police on every Friday at 10.30 a.m. for the period of two weeks and thereafter, they shall appear before the trial court for every hearing without fail.

(c) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioners shall not abscond 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]*; and;

(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.



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To

- 1.The XVII Metropolitan Magistrate,
Saidapet, Chennai.
- 2.The Inspector of Police,
R-2 Kodambakkam Police Station,
Chennai.
3. The Superintendent
Central Prison, Puzhal,
Chennai.
- 4.The Public Prosecutor,
High Court, Madras



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T.V.THAMILSELVI, J.

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