



Crl.O.P.No.539 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.01.2023

CORAM :

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

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1. Mullaram,
S/o. Lakshman Ram

2. Sujaram,
S/o. Kokka Ram

3. Thalaram,
S/o. Veeraram

.. Petitioners

Vs.

State represented by
The Inspector of Police,
Variety Hall Road Police Station,
Coimbatore City,
Coimbatore Dt.
(Crime No.226 of 2022)

.. Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to enlarge the petitioners on bail in Crime No.226 of 2022 on the file of respondent police.



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For Petitioners : Mr.P.M.Jayachandran
For Respondent : Mr.S.Vinoth Kumar
Govt. Advocate (Crl. Side)

ORDER

The petitioners, who were arrested and remanded to judicial custody on 24.12.2022 for the alleged offence under Sections 273, 328 I.P.C. r/w 7 (1), 20(1) of Cigarette and Other Tobacco Products Act, 2003 in Crime No.226 of 2022 on the file of the respondent police, seek bail.

2. The case of the prosecution is that on 24.12.2022 at about 09.45 p.m., when the respondent police conducted a vehicle checkup, they intercepted a car and on search, they found the driver of vehicle along with these petitioners herein were in illegal possession of 1386 kgs. of tobacco products, which was banned by the State Government. Hence, the complaint.

3. The learned counsel for the petitioners submitted that 1st petitioner is owner of vehicle and 2nd petitioner is driver of vehicle. He



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would submit that they did not aware about the bags, which contained banned tobacco products. He would submit 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 33 days from 24.12.2022. Hence, he prayed to grant bail to the petitioners.

4. The learned Government Advocate (Crl. Side) appearing for respondent would submit that 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.

5. Considering fact that the investigation is almost completed, no previous case pending against the petitioners and considering the period of incarceration undergone by the petitioners, this Court is inclined to grant bail to the petitioners with certain conditions.



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6. Accordingly, the petitioners are directed to **deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only) each as non-refundable deposit to the credit of registered Coimbatore Advocates Clerks Welfare Association, Coimbatore** 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 Judicial Magistrate No.5, Coimbatore*, 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 appear before the respondent police on every Saturday at 10.30 a.m. for the period of eight weeks.

(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,



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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.

27.01.2023

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To

- 1.The Judicial Magistrate No.5,
Coimbatore.
- 2.The Inspector of Police,
Variety Hall Road Police Station,
Coimbatore City and Dt.
- 3.The Superintendent of Prison,
Central Prison, Coimbatore.
- 4.The Public Prosecutor,
High Court, Madras.



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T.V.THAMILSELVI, J.

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