



Crl.O.P.No.1302 of 2023

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T.V.THAMILSELVI,J.

The petitioners, who apprehend arrest at the hands of the respondent Police for the offences punishable under Sections 328 of IPC r/w Section 24(1) of Cigarette and other Tobacco Products Act, 2003, in Crime No.20 of 2023, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that when the respondent Police and his team were on their regular patrol duty, they found that the first accused was illegally selling banned tobacco products. The respondent has arrested him and seized about 136.300 kilograms of banned tobacco products from him. Based on the confession of A1, it came to know that the petitioners are the persons who were supplying the banned tobacco products to A1. Hence the case.

3. Learned counsel appearing for the petitioners submitted that the petitioners are innocent persons and they have been falsely implicated in this case. He further submitted that the name of the petitioners does not find place in the First Information Report and they have been implicated only based on the false confession statement given by the first accused. He also stated that the



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petitioners are no way connected with the alleged offence and they are ready to abide by any stringent conditions that may be imposed by this Court. Hence, he prayed to grant anticipatory bail to the petitioners.

4. Learned Government Advocate (Crl.Side) appearing for the respondent submitted that the first accused was in illegal possession of 136.300 kilograms of banned tobacco products. He also stated that based on the confession statement recorded from the arrested first accused, it came to know that the present petitioners were also involved in this offence. Hence, he opposed to grant anticipatory bail to the petitioners.

5. At this juncture, the learned counsel for the petitioners, without prejudice their rights, on their own volition, are ready and willing to contribute some amount to any charitable trust as may be directed by this Court and he prays to grant anticipatory bail to the petitioners.

6. Heard the learned counsel for the petitioner and the learned



Government Advocate (Crl.Side) and perused the materials available on record.

7. In order to curb the illegal activities of smuggling and selling of tobacco products, this Court is of the opinion that the petitioner shall deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only) each as non refundable deposit to "The Registrar General, High Court of Madras for the purpose of using the amount for Siddha Clinic attached to this Court", without prejudice to his rights and contentions before the trial Court.

8. Merely, because the petitioner deposits the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

9. Taking into consideration the facts and submissions made by the learned counsel and also taking note of the fact that the petitioners without prejudice their rights, on their own volition, are ready and willing to contribute some amount to any welfare scheme of the Government, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.



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10. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen (15) days from the date of receipt of a copy of this order before the *learned Judicial Magistrate Court - II, Poonamallee*, on condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) each, with two sureties, each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners are directed to deposit a sum of Rs.50,000/- (Rupees Fifty Thousand Only) each by way of Demand Draft to the “Registrar General, High Court of Madras” for the purpose of using the amount for Siddha Clinic attached to this Court, within a period of one week from the date of receipt of a copy of this order and shall produce the said receipt before the Court below;

[b] the petitioners and 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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[c] the petitioners shall report before the respondent police every Wednesday at 10.30 a.m. for a period of three months and thereafter, as and when required for interrogation;

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial;

[e] the petitioners shall not abscond either during investigation or trial;

[f] 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];**

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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