



Crl.O.P.No.2125 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.02.2023

CORAM :

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

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1. Ilayaraja,
S/o. Pachaimuthu

2. Sardar Naina Mohammed,
S/o. Liaqat Ali

.. Petitioners

Vs.

State represented by
The Inspector of Police (L & O),
J5 Shastri Nagar Police Station,
Chennai.
(Crime No.8 of 2023)

.. 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.8 of 2023 on the file of respondent police.

For Petitioners : Mr.P.G.Santhosh Kumar

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



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ORDER

The petitioners, who were arrested and remanded to judicial custody on 10.01.2023 for the alleged offence under Sections 328 of I.P.C. r/w 20(2) Cigarette and other Tobacco Products, 2003 in Crime No.8 of 2023 on the file of the respondent police, seek bail.

2. The case of the prosecution is that on 10.01.2023 on a secret information, when the respondent police went to the spot at No.9/15, Damodarapuram 2nd Street, they found the petitioners along with other accused were found in possession of gunny bags and on seeing the police, they tried to escape from there and they caught hold of them. On search, they found that they were in possession of 430 kgs. of gutka in two nylon gunny bags illegally in order to sell the same without any valid license and they seized the same and a sum of Rs.28,470/- was seized as the sale proceeds from the 2nd petitioner. Hence, the complaint.

3. The learned counsel for the petitioners submitted that that 1st petitioner was not in possession of 430 kgs. of gutka in two nylon gunny



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bags and it is not humanly possible to carry and run. He would submit that the 2nd petitioner is standing along with him only and from him, they seized a sum of Rs.28,470/- said to have obtained through sale proceeds. 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 23 days from 10.01.2023. Hence, he prayed to grant bail to the petitioners.

4. The learned Government Advocate (Crl. Side) appearing for respondent would submit that the 1st petitioner is having 2 previous cases and the 2nd petitioner is having one previous case pending against them. He would submit that on the date of occurrence, the respondent police found the petitioners were in possession of 430 kgs. of gutka in two nylon gunny bags, which is worth about Rs.1,40,000/-. He would also submit that if they are released on bail, they will tamper the witnesses and hamper the investigation and now injured discharged from the hospital.



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Hence, he vehemently opposed to grant bail to the petitioners.

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5. Considering the above facts and circumstances and also 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.20,000/- (Rupees twenty thousand only) each as non-refundable deposit into the credit of registered Advocates Clerks Association, Ariyalur** and on such deposit, the petitioners are ordered to be released on bail on executing separate bonds for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each, **in which one surety must be a blood surety**, for a like sum to the satisfaction of the *learned IX 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



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Bank pass Book to ensure their identity;

(b) the petitioners shall appear before the respondent police on alternative days at 10.30 a.m. for the period of two months.

(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 IX Metropolitan Magistrate, Saidapet, Chennai.
- 2.The Inspector of Police (L & O),
J-5 Shastri Nagar Police Station, Chennai.
- 3.The Superintendent of Prison,
Central Prison, Puzhal, Chennai.
- 4.The Public Prosecutor,
High Court, Madras.



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T.V.THAMILSELVI, J.

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