



Crl.O.P.No.5022 of 2023

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A.D.JAGADISH CHANDIRA, J.

The petitioners who apprehend arrest at the hands of the respondent police for the offences punishable under Section 328 of IPC r/w Sections 6, 7 and 20(2) of Cigarette and other Tobacco Products Act, 2003, in Crime No.27 of 2023 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant Singaravelu, Inspector of Police, Poraiyar Police Station is that on information, he had intercepted the first accused one Kamalathan and he had given information stating that he had illegally stored 11,000 packets of banned tobacco products along with his friends A2 and A3, who are Mahendran @ Dinesh and Manickasundaram, respectively. Hence the complaint.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have not



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committed any offence as alleged by the prosecution and they have been falsely implicated in this case on the confession recorded from whom the alleged contraband is stated to be recovered. He would also submit that the petitioners are having some previous cases against them and in order to curtail their activities, the respondent has falsely implicated the accused. However, he would also submit that the petitioners are ready and willing to deposit a sum of Rs.25,000/- each, as non refundable deposit to any welfare scheme run by the Government. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the petitioners are associates of A1. From A1, 6750 packets of banned tobacco products worth about Rs.1,50,000/- has been seized. Hence, he vehemently opposed to grant anticipatory bail to the petitioners.

5. At this juncture, the learned counsel for the petitioners would submit that without prejudice to their contention and defence before the



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Trial Court, the petitioners are ready and willing to deposit an amount of Rs.25,000/- each as non refundable deposit to any welfare scheme run by the Government.

6. Heard both sides and perused the materials available on record.

7. Taking into consideration the facts and the submissions of both sides the petitioners are directed to deposit an amount of Rs.25,000/- each as non refundable deposit to the credit of **"The Dean/Medical Officer, Government Hospital, Mayiladuthurai District"**, without prejudice to their contention and defence before the trial Court.

8. However, it is made clear that merely because the petitioners 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 and circumstances of the case,



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the submissions made on both sides and also taking note of the fact that the petitioners have come forward to deposit an amount of Rs.25,000/- each to **"The Dean/Medical Officer, Government Hospital, Mayiladuthurai District"**, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

10. Accordingly, the petitioners are directed to **deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each**, as non refundable deposit **by way of RTGS/NEFT to "The Dean/Medical Officer, Government Hospital, Mayiladuthurai District"**, 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 in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the **learned District Munsif-cum-Judicial Magistrate, Tharangambadi**, on condition that the petitioners shall execute a bond for a sum of Rs.15,000/- (Rupees Fifteen Thousand only) each with two sureties each for a like sum to the satisfaction of the respondent police or the police



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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 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.

[b] the petitioners shall report before the respondent police everyday at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner 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



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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.

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