



Crl.O.P.No.13168 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2023

CORAM

THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

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1. Gugeseshwari @ Gugini

2. Parameshwari @ Paramu

... Petitioners

Vs.

The State represented by,
The Inspector of Police,
N-4 Fishing Harbour Police Station,
Chennai District.

(Crime No.145 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioners/accused on bail, in connection with Crime
No.145 of 2023, pending investigation on the file of the respondent Police.

For Petitioners : Mr.S.Sathish Rajan

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl.Side)



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ORDER

The petitioners, who were arrested and remanded to judicial custody on 28.05.2023, for the offences punishable under Section 4(1-A) of Tamil Nadu Prohibition Act, in connection with Crime No.145 of 2023, on the file of the respondent Police, seeks bail.

2. The case of the prosecution is that on receipt of secret information, the respondent Police and his team went to the scene of occurrence and conducted a search, wherein, they found that the accused was in illegal possession of 16 nos. of brandy bottles (each 180 ml). 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, since they have got some previous cases. He further submitted that the petitioners are in no way connected with the alleged offence, whereas, they are in custody from 28.05.2023. He further submitted that the petitioners are ready to abide by any stringent conditions that may be imposed by this Court. Hence, he prayed for grant of bail to the petitioners.



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4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioners were found to be in illegal possession of 16 nos of brandy bottles (each 180 ml). He further submitted that 6 previous cases of similar nature are pending against the first petitioner and with respect to the second petitioner, there are nine previous cases. Hence, he opposed to grant bail to the petitioners.

5. At this juncture, the learned counsel for the petitioners submitted that the petitioners, without prejudice to their defense and contention, are ready and willing to make a non-refundable deposit a considerable amount to any welfare scheme run by the Government or any other organization. Hence, he prays for grant of bail to the petitioners.

6. Heard the learned Counsel for the petitioners and the learned Government Advocate (Crl.Side) for the respondent Police and perused the materials available on record.



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7. On considering the voluntary submission made by the learned counsel for the petitioners, the first petitioner is directed to deposit a sum of Rs.20,000/- (Rupees Twenty Thousand only) and the second petitioner is directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the credit of "St. Annes Home for Children", without prejudice to their rights and contentions before the trial Court.

8. 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, the submissions made by the learned counsel on either side, and also considering the period of incarceration undergone by these petitioners, this Court is inclined to grant bail to the petitioners with certain conditions.

10. Accordingly, the first petitioner is ordered to be released on bail on condition to make a non-refundable deposit of **Rs.20,000/- (Rupees Twenty Thousand only)** and the second petitioner is ordered to be released



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on bail on condition to make a non-refundable deposit of **Rs.25,000/-** (Rupees Twenty Five Thousand only), directly to the credit of "ST. Annes Home for Children, Cruzpuram, Thoothukudi, (A/C. No.001100050304673, IFSC:TMBL0000001, MICR:627060004, Tamilnad Mercantile Bank Ltd., 56 & 57 Beach Road, Thoothukudi Main Branch, Thoothukudi - 628 001)", 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 on their executing a bond 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 XV Metropolitan Magistrate, George Town, 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;

[b] the petitioners shall report before the **respondent Police, everyday at 10.30 a.m., until further orders;**

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



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[d] the petitioners shall not tamper with evidence or witness 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]***;

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

28.06.2023

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To

1. The XV Metropolitan Magistrate,
George Town, Chennai,
2. The Inspector of Police,
N-4 Fishing Harbour Police Station,
Chennai.
3. The Central Prison (Women),
Puzhal.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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