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Crl.OP.Nos.15075 & 15076 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :13.07.2023

CORAM

THE HON'BLE MR. JUSTICE **G.CHANDRASEKHARAN**

Crl.OP.Nos.15075 & 15076 of 2023

1.Selvam

2.Haridasan

...Petitioners in
Crl.O.P.No.15076 of 2023

Akbar Basha

...Petitioner in Crl.O.P.No.15075
Vs.

The State Rep by
The Inspector of Police,
Kaveripakkam Police Station,
Ranipet District
(Crime No.149 of 2023)

...Respondent in both Crl.O.P's

PRAYER in Both Crl.O.P's:

Criminal Original Petition is filed under Section 439 of Cr.P.C.
praying to enlarge the petitioners on bail in Crime No.149 of 2023 on the
file of the respondent Police.

In Crl.O.P.No.15075 of 2023

For Petitioners : Mr.R.Sunilkumar

For Respondent : Mr.Leonard Arul Joseph Selvam



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Government Advocate (Crl.side)

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In Crl.O.P.No.15076 of 2023

For Petitioner : Mr.S.Sairaman

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.side)

ORDER

The petitioners, who were arrested and remanded to judicial custody on 16.06.2023 for the offences punishable under Section 7 (5), 20 (2) of the Cigarettes and other Tobacco Products Act, 2003 and under Section 328 I.P.C. in Crime No.149 of 2023 on the file of the respondent police, seek bail.

2.The learned counsel for the petitioners submitted that petitioners are falsely implicated in Cr.No.149 of 2023 for the offences under Section 7 (5), 20 (2) of the Cigarettes and other Tobacco Products Act, 2003 and under Section 328 I.P.C. Petitioners are in judicial custody from 16.06.2023. Therefore, he prays for grant of bail to the petitioners.

3.In response, the learned Government Advocate (Criminal Side) submitted that this is a case involving illegal possession of 164 kg of tobacco products. Third accused was found in possession of 37 kg, A5



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was found in possession of 90 kg and A6 was found in possession of 10.5 kg of tobacco on 16.06.2023. A3 has one similar case pending against him. Vehicle used for transporting tobacco products were recovered. Hence, he opposed this petition.

4.Considered the rival submissions and perused the records.

5.From the consideration of the facts placed before this Court, it is seen that the tobacco products and the vehicle used for transporting tobacco products were recovered. This Court is of the view that A5 and A6 may be granted bail on considering their judicial custody from 16.06.2023. However, considering the fact that A3 has similar case pending against him, this Court is not inclined to grant bail to the petitioner/A3 in Crl.O.P.No.15075 of 2023 and this petition is dismissed.

7. Accordingly, the 5th and 6th accused are ordered to be released on bail on their executing a bond for a sum of **Rs.10,000/- each** (Rupees Ten Thousand only) each with **two sureties**, each for a like sum to the



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satisfaction of the **learned Judicial Magistrate No.I, Walaja, Ranipet**

District, 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 5th accused without prejudice to his defence shall deposit a non-refundable sum of Rs.25,000/-, and the 6th accused without prejudice to his defence shall deposit a non-refundable sum of Rs.10,000/-, by way of Demand Draft to the Cancer Institute (WIA), East Canal Bank Road, Adyar, Chennai and that the receipt of such payment shall be produced before the concerned Magistrate at the time of executing the bond; It is made clear that merely, because the 5th and 6th accused 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.

[c] the 5th and 6th accused shall report before the respondent police daily at 10.30.a.m., until further orders.

[d] the 5th and 6th accused shall not abscond either



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during investigation or trial.

[e] the 5th and 6th accused shall not tamper with evidence or witness 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 5th and 6th accused in accordance with law as if the conditions have been imposed and the 5th and 6th accused 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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To

1.The Judicial Magistrate No.I, Walaja, Ranipet District

2.The Inspector of Police,
Kaveripakkam Police Station,
Ranipet District

3.Central Prison, Vellore.

4.The Public Prosecutor,
High Court of Madras.

5.Sub Jail, Walaja.



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G.CHANDRASEKHARAN. J.

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