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Crl.O.P.No.15440 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2023

CORAM

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

Crl.O.P.No.15440 of 2023

1. Afroz Basha
2. Rashida

... Petitioners

Vs.

The Inspector of Police,
Gudiyatham Town Police Station
Gudiyatham, Vellore District
Crime No.303 of 2023

...Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. to enlarge the petitioner on bail in Crime No.303 of 2023 on the file of the respondent police.

For Petitioners : Mr.S.Santhan

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



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ORDER

The petitioners, who were arrested and remanded to judicial custody on 20.06.2023 for the offence punishable under Sections 7(5), 20(2) of Cigarette and other Tobacco Products Act 2003 r/w 328 of IPC in Crime No.303 of 2023 on the file of the respondent police, seek bail.

2. The learned counsel for the petitioners submitted that, petitioners have been falsely implicated in this case in Crime No.303 of 2023, registered for the offences under Sections 7(5), 20(2) of Cigarette and other Tobacco Products Act 2003 r/w 328 of IPC and that, the petitioners have been in judicial custody from 20.06.2023. Thus, he prays for grant of bail.

3. In reply, the learned Government Advocate (Crl. Side) opposed this petition, on the ground that, the petitioners are husband and wife and they were found in illegal possession of 10 Kgs. and 476 Grams of tobacco products viz., 1. Vimal Pan Masala-10 Packets (2 kgs. 268 grams), 2. Coll Lip-15 Packets (1 Kg. 695 grams), 3.V-1 Tabaco-30



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Packets, 4.-Hans-15 Packets (5 Kgs 400 grams), 5. Cooli Lip Filter-17 Packets (1 kg 113 grams), in an auto bearing Regn. No.TN-23-AB-8941, at about 06.00 a.m., on 20.06.2023, at Gudiyatham Nethaji Chowk. On the basis of the confession of the petitioners, A3 and A4 were added as accused in this case. Hence, he prays for dismissal of this bail petition.

4. Considering the nature of the offence and the fact that the aforesaid tobacco products and the auto were seized and that the petitioners are in judicial custody from 20.06.2023, this Court is inclined to grant bail to the petitioners.

5. Accordingly, the petitioners are ordered to be released on bail on their executing a separate bond for a sum of **Rs.25,000/-** (Rupees Twenty Five thousand only) with **two sureties**, each for a like sum to the satisfaction of the learned **Judicial Magistrate, Gudiyatham** and on further conditions that :-



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[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 deposit a non-refundable sum of Rs.10,000/- each, 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;

[c] the petitioners shall report before the respondent police daily at 10.30 a.m., until further orders.

[d] the petitioners shall not abscond either during investigation or trial.

[e] the petitioners shall not tamper with evidence or witness either during investigation or trial.



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[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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To

1.The Judicial Magistrate,
Gudiyatham.

2.The Central Prison,
Thorapadi, Vellore

3.The Inspector of Police,
Gudiyatham Town Police Station
Gudiyatham, Vellore District

4.The Public Prosecutor,
High Court of Madras

G.CHANDRASEKHARAN. J.



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