



Crl.O.P.No.16689 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2023

CORAM

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

Crl.O.P.No.16689 of 2023

1.Darajaram
2.Bheraram

...petitioners

Vs.

The State Represented by
Inspector of Police,
Sulur Police Station,
Coimbatore District.
(Crime No.459 of 2023)

...Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. to release the petitioners on bail concerned in Crime No.459 of 2023 on the file of the respondent.

For petitioners : Mr.N.Arun Kumar

For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor



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ORDER

The petitioners/A1 & A2, who were arrested and remanded to judicial custody on 05.07.2023 for the offences punishable under Sections 24(1) of COTPA Act, 2003 read with 328 of IPC in Crime No.459 of 2023 on the file of the respondent police, seek bail.

2. The learned counsel for the petitioners submitted that, petitioners are accused in Crime No.459 of 2023 for the offences under Sections 24(1) of COTPA Act, 2003 read with 328 of IPC. He further submitted that, petitioners are innocents and they are falsely implicated in this case. Petitioners are in judicial custody from 05.07.2023. Thus, he prays for grant of bail.

3. In response, the learned Additional Public Prosecutor submitted that, on 05.07.2023, at about 11.00 hrs, the police party mounted surveillance near Rajaram Central Stores, Kalangal Road and found two persons standing with white sacks. On seeing police, they tried to escape by leaving the sacks. Police apprehended them and came to know their names as Darajaram and Bheraram. On searching the sacks, they found with the following tobacco products, (1) 1 bag



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containing SWAGAT Tobacco (weighing 22 Kgs), (2) 11 bags containing VIMAL tobacco (weighing 52 Kgs), (3) 1 bag containing V1 Tobacco (weighing 15 Kgs) and (4) 1 bag containing GANESH Tobacco (weighing 8 Kgs). Subsequently, the case was registered. The tobacco products were seized. A2 in this case is having a similar previous case pending in Crime No.346 of 2022. Therefore, he prays for dismissal of this bail petition.

4. Considering the fact that A2/2nd petitioner is having a similar previous case, this Court is not inclined to grant bail to the petitioner. Therefore, as far as the 2nd petitioner is concerned, this petition is dismissed.

5. In view of the fact that this is the first offence for the 1st petitioner and that the tobacco products were seized, this Court is inclined to grant bail to the petitioner and the petitioner is ordered to be released on bail on his executing a 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 Court, Sulur** 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 petitioner without prejudice to his defence shall deposit a non-refundable sum of Rs.50,000/-(Fifty Thousand Only), by way of Demand Draft to the Chief Minister's Public Relief Fund, Finance (CMPRF) Department, Government of Tamil Nadu, Secretariat, Chennai 600 009. Tamil Nadu, India, Indian Overseas Bank, Secretariat Branch, Chennai 600 009, S.B.Account No.11720 10000 00070, IFS Code IOBA0001172, CMPRF PAN: AAAGC0038F 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 petitioner deposits the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

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



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

[e] the petitioner 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner 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.

26.07.2023

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To

- 1.The Judicial Magistrate Court, Sulur.
- 2.The Central Prison,
Coimbatore.
- 3.The Inspector of Police,
Sulur Police Station,
Coimbatore District.
- 4.The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN. J.

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