



Crl.O.P.No.19168 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2023

CORAM

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

Crl.O.P.No. 19168 of 2023

1. G.Umapathy

2. M.Karthick

...Petitioners

Vs.

The State Represented by,  
The Inspector of Police,  
PEW, Erode,  
Erode District.  
Crime No. 574 of 2023

...Respondent

**PRAYER:** Criminal Original Petition is filed under Section 439 of Cr.P.C. to enlarge the petitioners on bail in Crime No. 574 of 2023 on the file of the respondent police.

For Petitioners : Mr. N. Chinnaraj

For Respondent : Mr.S.Rajakumar  
Additional Public Prosecutor

**ORDER**



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The petitioners, who were arrested and remanded to judicial custody on 06.08.2023 for the offences punishable under section 328 of I.P.C. in Crime No. 574 of 2023 on the file of the respondent police, seeks bail.

2. The learned counsel for the petitioners submitted that, petitioners are accused fro illegal possession of Tapentadol tablets. petitioners are in judicial custody from 06.08.2023. Thus, he prays for grant of bail.

3. In reply, the learned Additional Public Prosecutor submitted that, on 06.08.2023 at about 11.45.a.m., on secret information respondent police mounted a surveillance near Vairapalayam, they found the accused near Gounder tea shop in a suspicious circumstances. After following necessary procedure, search was conducted. Accused Umapathy possessed 19 Tapentadol tablets and cash of Rs. 300/- obtained from selling the tablets. Accused Karthick possessed 20 Tapentadol tablets and a cash of Rs.200/- obtained from selling the tablets. Tablets and cash were seized from the petitioners and the case was registered.

4. This Court asked the learned Additional Public Prosecutor



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whether Tapentadol tablet is scheduled as per the NDPS Act. The answer came negative. FIR is registered under Section 328 of IPC. Considering the fact that, petitioners are in judicial custody from 06.08.2023 and tablets and cash possessed by the petitioners were seized and that the material part of the investigation might have been over by this time, this Court is inclined to grant bail to the petitioners.

5. Accordingly, petitioners are ordered to be released on bail on their executing 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 No. II, Erode** 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 without prejudice to their**



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**defence shall deposit a non-refundable sum of Rs.10,000/- each, 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 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.

**23.08.2023**

sma/mac

To

1. Judicial Magistrate No.II,  
Erode.
2. District Jail,  
Gobichettipalayam.
3. The Inspector of Police,  
PEW, Erode,  
Erode District.
4. The Public Prosecutor,  
High Court of Madras.



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**G.CHANDRASEKHARAN. J.**

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