



CRL OP(MD). No.21460 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 06/12/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD). No.21460 of 2023

1.Shri Mohammed Irfan

2.Shri Ajmal Khan

... Petitioners/ Accused Nos.1 & 2

Vs

The Senior Intelligence Officer,
Directorate of Revenue Intelligence,
Trichy Regional Unit,
No.9C (New No.99), Bharathidasan Salai,
Cantonment,
Trichy - 620001.
(In DRI/CZU/TRY/VIII/48/ENQ-Q1/INT-13/2023)

... Respondent/Complainant

For Petitioners	: Mr.A.Prasanna Rajadurai, Advocate for Mr.J.Prabhu, Advocate
For Respondent	: Mr.C.Arul Vadivel @ Sekar, Special Public Prosecutor

PETITION FOR BAIL Under Sec.439 of Cr.P.C.



CRL OP(MD). No.21460 of 2023

PRAYER:-

For Bail in DRI/CZU/TRY/VIII/48/ENQ-Q1/INT-13/2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners, who were arrested and remanded to Judicial Custody on 09.10.2023 for the alleged offence punishable under Sections 135(1)(1)(A), 135(1)(b) of Customs Act, 1962 in DRI/CZU/TRY/VIII/48/ENQ-Q1/INT-13/2023 on the file of the respondent police, seek bail.

2.The case of the prosecution is that on 09.10.2023, at about 07.10. p.m, on secret information, the respondent police intercepted the vehicle namely, Maruti Suzuki Brezza bearing Reg.No.TN-05-BF-9031 and found that the petitioners were in possession of 7555.900 grams of smuggled gold. Hence, the case.

3.The learned counsel appearing for the petitioners would contend that the petitioners are innocent and they have not committed any offence as alleged by the prosecution. He would further submit that this the second bail application. Earlier bail petition filed by the petitioners in CrI.OP(MD)No.20443 of 2023 was dismissed as withdrawn on 21.11.2023. The first petitioner is working as Taxi driver. The vehicle involved in the occurrence is belong to one Wappu Kaka. He only fixed the first petitioner to drive the said vehicle with the second petitioner and they have not



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had awareness about the gold, which was kept inside the Car. Further, they are in custody from 09.10.2023, hence he seeks bail.

4.The learned Special Public Prosecutor appearing for the respondent Police would submit that one Wappu Kaka approached the first petitioner for carrying the smuggled gold to Chennai by Car and offered Rs.5,000/- as commission and also offered Rs.3,000/- as commission to the second petitioner. Hence, they smuggled the 7555.900 grams of gold. If they released on bail, they would continue to indulge in smuggling gold. Hence, he strongly objected to grant bail to the petitioners.

5.Heard both sides and perused the materials available on record.

6.Considering the facts and circumstances and considering the period of incarceration and also taking into consideration of the principle stated by the Honourable Supreme Court in *Sanjay Chandra and others vs. CBI* reported in **(2012)1 SCC 40** and the nature of the offence alleged as against the petitioners, this Court is inclined to grant bail to the petitioners, subject to the following conditions:

[i] Accordingly, the petitioners are ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Trichy, and on further conditions that:



CRL OP(MD). No.21460 of 2023

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(ii) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

(iii) the petitioners shall appear before the respondent police at 10.30 a.m, once in a week until further orders.

(iv) the petitioners shall not tamper with evidence or witness;

(v) the petitioners shall not abscond during trial.

vi) 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].

vii) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
06/12/2023

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/12/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

DSS



CRL OP(MD). No.21460 of 2023

TO
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- 1 THE JUDICIAL MAGISTRATE NO.I
TRICHY.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TRICHY.
- 3 THE SENIOR INTELLIGENCE OFFICER,
DIRECTORATE OF REVENUE INTELLIGENCE,
TRICHY REGIONAL UNIT,
NO. 9C (NEW NO. 99)
BHARATHIDASAN SALAI, CANTONMENT,
TRICHY 620001
- 4 THE SUPERINTENDENT
CENTRAL PRISON, TRICHY.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.J.PRABU, Advocate (SR-17322[I] dated 06/12/2023)

ORDER
IN

CRL OP(MD) No.21460 of 2023

Date :06/12/2023

SS/DD/SAR- /07/12/2023/5P/7C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023