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CRL O.P. No.19971 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.08.2024

CORAM

The Hon'ble Mr. Justice P.DHANABAL

CRL OP.No.19971 of 2024

1. Shiva S/o. Paira
2. Naveenkumar S/o. Sivanna ... Petitioners/Accused
Vs

State rep. by:-

The Inspector of Police,
Pallapatty Police Station,
Salem. ... Respondent
[Cr. No.429 of 2024]

PETITION FOR BAIL Under Sec.483 of B.N.S.S.

PRAYER:- The Criminal Original Petition is filed under Section 483 of The Bharatiya Nagarik Suraksha Sanhita, 2023, praying to grant bail to the petitioners/Accused in Crime No.429 of 2024 on the file of the respondent police.

For Petitioner : Mr. W. Camyles Gandhi
For Respondent : Mr. S. Vinothkumar
Government Advocate
(Criminal Side)

ORDER



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The petitioners/Accused, who were arrested and remanded to judicial custody on 02.08.2024 for the offences punishable under section 24(1) of COTPA Act and Section 328 of IPC in Crime No.429 of 2024 on the file of the respondent police, seek bail.

2. The case of the prosecution is that on 27.04.2024, based on the secret information, the police party went to the place of occurrence at Balaji Oil Mill Road and searched and found the accused standing in the Siva Transport Office Complex, near the vehicle bearing Registration No.KA05 AJ 8388, had illegally transported the banned Tobacco products of 252.5 kgs in the said vehicle. Hence, the case.

3. The learned counsel for the petitioners would contend that the petitioners are arraigned as A1 and A2 and they are in judicial custody for the more than two weeks. The earlier bail application filed by the petitioners before the Principal District and Sessions Court, Salem was dismissed. The petitioners are ready to abide by any condition imposed by this Court. Hence, the petitioners may be released on bail.

4. The learned Government Advocate (Criminal Side) would submit that on 27.04.2024 the petitioners were found transporting the



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banned Tobacco products weighing 252.5 kgs in the vehicle bearing Registration No.KA05 AJ 8388. There are two accused in this case. The petitioners are also involved in two other cases of similar nature. Hence he objected to grant bail to the petitioners. He would further submit that the co-accused was released on bail and in the previous cases, the petitioners were granted bail.

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

6. Considering the rival submissions on either side, considering the nature of offences involved in this case, considering the fact that the co-accused was released on bail, that in all other cases, the petitioners were granted bail and also taking into consideration the period of incarceration of the petitioners, I am inclined to grant bail to the petitioners, subject to the following conditions:

[a] Accordingly, each petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction



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of the **Judicial Magistrate No.II, Salem** and on further conditions that:

[b] the petitioners shall report before the respondent police daily at 10.00 A.M. for 30 days and thereafter as and when required for interrogation.

[c] the petitioners shall not commit any offences of similar nature.

[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.

[f] On breach of any of the aforesaid conditions, the learned Judicial 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 269 B.N.S.

19.08.2024

index: Yes/No

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Internet: Yes/No

Speaking/Non Speaking order
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To

1.The Judicial Magistrate No.II, Salem

2.The Inspector of Police,
Pallapatty Police Station,
Salem

3.The Superintendent,
Central Prison, Salem.

4.The Public Prosecutor, High Court, Madras.

P.DHANABAL,J

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