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CrI.O.P.No.27310 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2024

CORAM

THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

CrI.O.P.No.27310 of 2024

1. Mohammed Nowshad

2. Kadhar

... Petitioners

Vs.

State of Tamil Nadu Represented by
The Inspector of Police,
Bagayam Police Station,
Vellore District.
(Crime No.445 of 2024).

... Respondent

PRAYER: Criminal Original Petition filed under Section 483 of BNSS.,
pleased to enlarge the petitioners/accused on bail, in connection with the
Crime No.445 of 2024, pending investigation on the file of the respondent
Police.

For Petitioners : Mr.M.R.Thangavel

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



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ORDER

The petitioners, who were arrested and remanded to judicial custody on 14.10.2024 for the offences punishable under Sections 6(b), 24(1) of Cigarette and other Tobacco Products Act, 2003 and Section 123 of the BNS, 2023 in Crime No.445 of 2024 on the file of the respondent police, seek bail.

2. The case of the prosecution is that the petitioners were found in illegal possession of 21 kgs 84 grams of banned tobacco products. Hence the case.

3. The learned counsel appearing for the petitioners submits that the petitioners are innocent persons and they have not committed any such offence as alleged by the prosecution. The petitioners have been falsely implicated in this case. However, on instructions, the learned counsel further submits that the petitioners are ready and willing to abide by any conditions that may be imposed by this Court and he prays to grant bail to the petitioners.



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4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioners were found in illegal possession of 21 kgs 84 grams of banned tobacco products. He further submitted that one previous case is pending as against the first petitioner and no previous case is pending as against the second petitioner. Therefore, he opposed to grant bail to the petitioners.

5. At this juncture, the learned counsel for the petitioners submitted that the petitioners, without prejudice to their defence and contention, are ready and willing to deposit an amount of Rs.10,000/- each as non-refundable deposit to any welfare scheme of the Government or to any shelter home. Hence, he prays for grant of bail to the petitioners.

6. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.Side) for the respondent Police and perused the materials available on record.



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7. On considering the voluntary submission made by the learned counsel for the petitioners, the petitioners are directed to deposit a sum of Rs.10,000/- (Rupees ten thousand only) each as non refundable deposit to "The Dean/Medical Officer, Government Vellore Medical College Hospital, Adukkamparai, Vellore", without prejudice to their rights and contentions before the trial Court.

8. Merely, because the petitioners have deposited the said amount, it would not amount to admission of their guilt. Therefore, it is open to the trial Court to deal with the case independently.

9. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel on either side and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

10. Accordingly, the petitioners are ordered to be released on bail on condition to make a non refundable deposit of **Rs.10,000/- (Rupees Ten thousand only)** each by way of **RTGS/NEFT to the "The Dean/Medical**



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Officer, Government Vellore Medical College Hospital, Adukkamparai, Vellore", without prejudice to their rights and contentions before the trial Court and on such deposit and production of proof, the petitioners are ordered to be released on bail each of them executing a bond for a sum of **Rs.10,000/- (Rupees Ten thousand only)** with **two sureties**, each for a like sum to the satisfaction of the **learned Judicial Magistrate No.I, Vellore District**, 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 shall report before the respondent Police everyday at 10.30 a.m., until further orders;

[c] the petitioners shall not abscond either during investigation or trial;

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial;

[e] On breach of any of the aforesaid conditions,



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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]*;

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 269 of BNS.

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A.D.JAGADISH CHANDIRA.,J.

nsf

To

1. The Judicial Magistrate No.I, Vellore District
2. The Inspector of Police,
Bagayam Police Station,
Vellore District.
3. Vellore Central Prison, Thorapadi.
4. The Public Prosecutor,
High Court of Madras.

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