



Crl.O.P.No.28116 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2024

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THE HON'BLE MR. JUSTICE SUNDER MOHAN

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1. Balamurugan

2. Manikandan

... petitioners

Vs.

The State represented by,
The Inspector of Police,
Tiruppur South Police Station,
Tiruppur District.

(Crime No.789 of 2024).

... Respondent

PRAYER: Criminal Original Petition filed under Section 483 of BNSS, pleaded to enlarge the petitioners on bail, in connection with the Crime No.789 of 2024, pending investigation on the file of the respondent Police.

For Petitioners : Mr.P.Thinesh

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

ORDER

This Criminal Original Petition has been filed by the petitioners, who were arrested and remanded to judicial custody on 26.10.2024, seeking bail in



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Crime No.789 of 2024 registered for the offence under Section 22(a) of the Cigarette and other Tobacco Products Act, 2003 and Section 123 of BNS.

2. The case of the prosecution is that the petitioners were found to be in illegal possession of 6.700 kilograms of banned tobacco products and the same was seized by the respondent on the complaint given by the de facto complainant. Hence the case.

3. Learned counsel appearing for the petitioners submitted that the allegation against the petitioners is false and they are in custody from 26.10.2024. Hence, he prayed for grant of bail to the petitioners.

4. Learned Government Advocate (CrI.Side) appearing for the respondent police submitted that the petitioners were found to be in illegal possession of 6.700 kilograms of banned tobacco products. He further submitted that there is no previous case against the first petitioner/A1 and in respect of A2, 5 previous cases including 4 similar nature cases are pending, hence, he opposed for granting bail to the petitioners.



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5. At this juncture, the learned counsel for the petitioners submitted that the second petitioner/A2, without prejudice to his defense and contention, is ready and willing to deposit an amount of Rs.10,000/- as non-refundable deposit to any welfare scheme of the Government or any other organization. Hence, he prayed for grant of bail to the petitioners.

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

7. On considering the voluntary submission made by the learned counsel for the petitioners, the second petitioner/A2 is directed to deposit a sum of Rs.10,000/- (Rupees Ten thousand only) as non refundable deposit to "District Legal Services Authority, Tiruppur", without prejudice to his rights and contentions before the trial Court.

8. Merely because the second 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.



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9. Considering the nature of allegation and period of incarceration undergone by the petitioners, this Court is inclined to grant bail to the petitioners with certain conditions.

10. Accordingly, the petitioners are ordered to be released on bail on their executing separate bond each 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.II, Tiruppur**, 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 second petitioner/A2 is directed to make a **non-refundable deposit of Rs.10,000/- (Rupees Ten Thousand only)** to the credit of "District Legal Services Authority, Tiruppur", without prejudice to his rights and contentions before the trial Court and he shall produce the proof at the time of furnishing sureties;

[c] the petitioners shall report before the respondent Police, everyday at 10.30 a.m., until further orders;



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[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 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.

11.11.2024

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To

1. The Judicial Magistrate No.II,
Tiruppur.
2. The Inspector of Police,
Tiruppur South Police Station,
Tiruppur.
3. The Superintendent,
Central Prison, Tiruppur.
4. The Public Prosecutor,
High Court of Madras.



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SUNDER MOHAN.,J.

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