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Crl.O.P. No.28880 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2024

CORAM

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

Crl.O.P.No.28880 of 2024

1. Govarthanan
2. Rathina Kumar ... Petitioners

Vs.

State
rep. by the Inspector of Police,
Attur Town Police Station,
Salem District. ... Respondent

PRAYER: Criminal Original Petition filed under Section 483 of BNSS to
enlarge the petitioners on bail concerned in Crime No.375 of 2024 pending
investigation on the file of respondent.

For Petitioners : Mr.E. Kannadasan

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 09.11.2024 , seeking



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bail in Crime No.375 of 2024 registered for the offences under Sections 123 of BNS 2023 and u/s.7(5) & 20(2) of Cigarette and other Tobacco Products Act 2003.

2.The case of the prosecution is that the petitioners were found in possession of banned tobacco products (33.300 kgs of Hans packets). Hence the case.

3.Learned Counsel appearing for the petitioners submitted that the petitioners are innocent persons and they have been falsely implicated in this case only for statistical purpose. Hence, he prayed for grant of bail to the petitioners stating that the petitioners are ready to abide by any stringent conditions that may be imposed by this Court.

4.Learned Government Advocate (Crl. Side) appearing for the respondent police while opposing for grant of bail to the petitioners submitted that the petitioners were found in possession of banned tobacco products.

5.At this juncture, the learned counsel for the petitioners submitted



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that the petitioners, without prejudice to their defense and contention, are ready and willing to deposit an amount of Rs.5,000/- each as non-refundable deposit to any welfare scheme of the Government or to any shelter home. Hence, he prayed for grant of bail to the petitioners.

6.Heard the learned Counsel appearing for the petitioners and the learned Government Advocate (Crl. 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 petitioners are directed to deposit a sum of Rs.5,000/- (Rupees five thousand only) **each** as non refundable deposit to **"the District Legal Services Authority, Salem District"**, without prejudice to his 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.



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9. Taking into consideration the facts and the submissions made by the learned counsel appearing for the parties, taking note of the 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 condition to make a non-refundable deposit of **Rs.5,000/- (Rupees five thousand only)** each to "the District Legal Services Authority, Salem District", without prejudice to their rights and contentions before the trial Court, on such deposit and production of proof, the petitioners are ordered to be released on bail on his executing a bond for a sum of **Rs.15,000/- (Rupees Fifteen Thousand only)** with **two sureties**, each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Attur 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 appear before the respondent police daily at 10.30 am., until further



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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, 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 B.N.S.

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A.D.JAGADISH CHANDIRA.,J.
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To

1. The Judicial Magistrate No.1,
Attur.
2. The Inspector of Police,
Attur Town Police Station,
Salem District.
3. The Superintendent,
Sub-Jail, Attur.
4. The Public Prosecutor,
High Court of Madras.

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