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Crl.O.P. No. 28986 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2024

CORAM

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

Crl.O.P.No. 28986 of 2024

1. Elumalai

2. Subash @ Subash Chandira Boss

... Petitioners

Vs.

The State rep. by
The Inspector of Police,
Anandapuram Police Station,
Villupuram District,
Cr.No. 348 of 2024

... Respondent

PRAYER: Criminal Original Petition filed under Section 483 of BNSS, 2023
to release the petitioners on bail pending investigation in Crime No.348 of
2024 on the file of the respondent.

For Petitioners : Mr.G. Mageshkumar

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

ORDER

This Criminal Original Petition has been filed by the petitioners,



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who were arrested and remanded to judicial custody on 14.10.2024 , seeking bail in Crime No.348 of 2024 registered for the offences punishable under Sections 274, 275, 123 of BNS, 2023 r/w. Section 24(1), 6(b) of the Cigarettes and other tobacco products (Prohibition of Advertisement and regulation of Trade and Commerce, Production, Supply and Distribution) Act, (COTPA) Act, 2003.

2.The case of the prosecution is that the petitioners were found in possession of banned tobacco products (Hans, Cool lip, RMD Pan masala, V-1 Tobacco, V-1 Vimal Pan Masala) in their Ashok Leyland Dost vehicle bearing Reg. No.TN 32 AQ 7186. Hence the case.

3.Learned Counsel appearing for the petitioners submitted that the petitioners (A1 & A2) 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



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respondent police while opposing for grant of bail to the petitioners submitted that the petitioners were found in possession of banned tobacco products (Hans, Cool lip, RMD Pan masala, V-1 Tobacco, V-1 Vimal Pan Masala) in their Ashock Leyland Dost vehicle bearing Reg. No.TN 32 AQ 7186. He further submitted that the first petitioner has five previous cases pending against him and the second petitioner has four previous cases pending against him.

5.At this juncture, the learned counsel for the petitioners submitted that the petitioners, without prejudice to their defense and contention, are ready and willing to deposit an amount of Rs.50,000/- **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 including the counter affidavit filed by the respondent.



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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.50,000/- (Rupees fifty thousand only) each as non refundable deposit to **"The Dean/Medical Officer, Government Medical College Hospital, Mundiampakkam"**, 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 the submissions made by the learned counsel appearing for the parties, taking note of the period of incarceration undergone by the petitioner, 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.50,000/-** (Rupees fifty thousand only) **each** to the credit of **"The Dean/Medical Officer,**



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Government Medical College Hospital, Mundiampakkam", 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 their executing a bond for a sum of **Rs.15,000/- (Rupees Fifteen Thousand only) each** with **two sureties**, each for a like sum to the satisfaction of the learned Judicial Magistrate, Gingee 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 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



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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 B.N.S.

20.11.2024

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To

1. The Judicial Magistrate, Gingee.
2. The Inspector of Police,
Anandapuram Police Station,
Villupuram District.
3. The Superintendent,
District Jail, Villupuram.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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