



WEB COPY



Crl.O.P.Nos.29213 and 29217 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2024

CORAM

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

Crl.O.P.Nos.29213 and 29217 of 2024

J.Swamynathan ... Petitioner in Crl.O.PNo.29213 of 2024

M.Arul ... Petitioner in Crl.O.P.No.29217 of 2024

Vs.

The State represented by,
The Inspector of Police,
Ennore.

(Crime No.878 of 2024) ... Respondent in both Crl.O.Ps

PRAYER: Criminal Original Petitions filed under Section 483 of BNSS, pleased to enlarge the petitioners on bail, in connection with the Crime No.878 of 2024, pending investigation on the file of the respondent Police.

For Petitioners : Mr.G.Suresh in both Crl.O.Ps
For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)
in both Crl.O.Ps



Crl.O.P.Nos.29213 and 29217 of 2024

WEB COPY

ORDER

This Criminal Original Petition has been filed by the petitioners, who were arrested and remanded to judicial custody on 03.11.2024, seeking bail in Crime No.878 of 2024 registered for the offence under Section 24(1) of Cigarette and other Tobacco Products Act, 2003 and under Section 123 of BNS Act.

2. The case of the prosecution is that the petitioners were found in illegal possession of banned tobacco products of 54 Kgs and 20 Kgs respectively. 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. He also submitted that the petitioners are in custody from 03.11.2024 and they are ready to abide by any stringent conditions that may be imposed by this Court. Hence, he prayed for grant of bail to the petitioners.

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 illegal possession of banned tobacco products of



Crl.O.P.Nos.29213 and 29217 of 2024

54 Kgs and 20 Kgs respectively. He further submitted that there are no previous cases pending against the petitioners.

5. At this juncture, the learned counsel for the petitioners submitted that the petitioner in Crl.O.P.No.29213 of 2024 and the petitioner in Crl.O.P.No.29217 of 2024, without prejudice to their defense and contention, are ready and willing to deposit a non-refundable amount of Rs.30,000/- and Rs.15,000/- respectively, to any welfare scheme of the Government or any organization. Hence, he prayed for grant of bail to the petitioners.

6. Heard the learned counsel appearing for the petitioners, 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 Rs.30,000/- and Rs.15,000/- respectively, as non refundable deposit to the credit of "Director, Institute of Mental Health, Kilpauk, Chennai", without prejudice to their rights and contentions before the trial Court.



Crl.O.P.Nos.29213 and 29217 of 2024

WEB COPY

8. Merely because the petitioners deposit 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.

9. Taking into consideration the above 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 petitioners, this Court is inclined to grant bail to the petitioner with certain conditions.

10. Accordingly, the petitioners in Crl.O.P.Nos.29213 and 29217 of 2024 are ordered to be released on bail on condition to make a non-refundable deposit of Rs.30,000/- (Rupees Thirty Thousand only) and Rs.15,000/- (Rupees Fifteen Thousand only) respectively, to the credit of **"Director, Institute of Mental Health, Kilpauk, Chennai"**, 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 on his executing separate 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**



Crl.O.P.Nos.29213 and 29217 of 2024

Magistrate, Thiruvottiyur, 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, 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 absconds, a fresh FIR can be registered under Section 269 of B.N.S.

22.11.2024

Anu

A.D.JAGADISH CHANDIRA..J.



WEB COPY



Crl.O.P.Nos.29213 and 29217 of 2024

Anu

To

1. The Judicial Magistrate, Thiruvottiyur
2. The Inspector of Police,
Ennore.
3. The Superintendent,
Central Prison, Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras.

Crl.O.P.Nos.29213 and 29217 of 2024

22.11.2024