



CRL OP(MD). No.115 of 2024

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)**

Date : 05/01/2024

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

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1.Malairaj

2.Subbaiya @ Francis

... 1 & 2 Petitioners/ Accused

Vs

**The Inspector of Police,
Devakkottai Taluk Police Station,
Sivagangai District.
In Crime No.275 of 2023.**

... Respondent/ Complainant

**For petitioners : Mr.S.SARVAGAN PRABHU,
Advocate.**

**For Respondent : Mr.B.NAMBISELVAN,
Additional Public Prosecutor**

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :- For Bail in Crime No.275 of 2023 on the file of the respondent police.

ORDER : The Court made the following order :-

**The petitioners, who were arrested and remanded to judicial custody on
04.12.2023 for the offence punishable under Sections 273, 328 of IPC and Section 24(1)**



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of COTPA Act and Section 77 of the Juvenile Justice Act, 2015, in Crime No.275 of 2023, on the file of the respondent Police, seeks bail.

2. The case of the prosecution is that the petitioners were found in illegal possession of banned tobacco products and in selling the same to the school students. Thereby, they were arrested and remanded to judicial custody. Hence, the complaint.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent person and they have been falsely implicated in this case. The petitioners did not commit any allegations as alleged by the prosecution. He would further submit that the petitioners are in judicial custody for more than 32 days. Further, on their own volition, the petitioners undertake to construct a toilet to the Government Higher Secondary School, Anumanthakudi. Hence, he prays for grant bail to the petitioners.

4.The learned Additional Public Prosecutor appearing for the respondent would submit that the first petitioner is having two previous cases and the second petitioner is having three previous cases at their credit. Hence, he opposed to grant bail to the petitioners.

5. Heard the learned counsels on either side.

6. Considering the facts and circumstances of the case and the period of incarceration suffered by the petitioners, this Court is inclined to grant bail to the



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petitioners with certain conditions.

(*)"7. Accordingly, the petitioners are ordered to be released on bail on their executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, Devakkottai, Sivangagai District, and on further conditions that:

(a) Since the petitioners on their own volition, undertake to construct a toilet to the Government Higher Secondary School, Anumanthakudi, they are directed to construct a toilet to the said school on coming out of bail within a period of six weeks. The Head Master of the said school shall co-operate with the petitioners for construction of toilet for the benefit of girl students. After constructing the toilet, appropriate proof shall be sent to the concerned learned Judicial Magistrate by the Headmaster of the said School. On receipt of the proof, the concerned learned Judicial Magistrate shall proceed in accordance with law. The petitioners shall file a photograph before this Court, after construction of toilet to the said school."

(b) 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;

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(c) the petitioners are directed to appear before the respondent police daily at 10.30 a.m and 05.00 p.m., until further orders;

(d) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(e) the petitioners shall not abscond 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]; and;

(g) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

05/01/2024

(*) SUBSTITUTED AS PER ORDER OF THIS
HON'BLE COURT DT.08/01/2024 IN CRL.OP(MD).
115/2024.

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08/01/2024

Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.



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TO
TO BE SUBSTITUTED WITH THE ORDER DT. 05/01/2024 ALREADY
DESPATCHED

1 THE JUDICIAL MAGISTRATE,
DEVAKOTTAI, SIVAGANGAI DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL
MAGISTRATE, SIVAGANGAI DISTRICT.

3 THE OFFICER INCHARGE,
SUB JAIL, THIRUPPATHUR, SIVAGANGAI DISTRICT.

4 THE INSPECTOR OF POLICE,
DEVAKKOTTAI TALUK POLICE STATION,
SIVAGANGAI DISTRICT.

5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:
THE HEAD MASTER,
GOVERNMENT HIGHER SECONDARY SCHOOL,
ANUMANTHAKUDI.

+1 CC to M/s.S.SARVAGAN PRABHU, Advocate (SR-183[I] dated 05/01/2024)

ORDER

IN

CRL OP(MD) No.115 of 2024

Date :05/01/2024

SA/SAR. /05.01.2024/5P/8C

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