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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.02.2025

PRESENT

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

CRL.OP(MD).3755 of 2025

1.Chinnaiya

2.Saravanakumar

... Petitioners / Accused Nos.1 & 2

Vs.

The State of Tamil Nadu rep by
The Inspector of Police,
Peravurani Police Station,
Thanjavur District.
(Crime No.29 of 2025)

... Respondent / Complainant

PRAYER :- The Criminal Original Petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 praying to grant bail to the petitioners in Crime No.29 of 2025 on the file of the respondent-police.

For Petitioners : Mr.D.R.Murugesan,
Advocate

For Respondent : Mr.K.Sanjai Gandhi,
Government Advocate
(Criminal Side)

ORDER : The Court made the following order :-

This Criminal Original Petition has been filed by the petitioners on 25.02.2025



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under Section 483 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, praying to grant bail.

2. The petitioners were arrested and remanded to judicial custody on 22.01.2025 for the alleged offences punishable under Sections 275, 123 of BNS and Sections 7(1) and 24(1) of Cigarette and Other Tobacco Products Act, 2003, in Crime No.29 of 2025 on the file of the respondent-police.

3. The case of the prosecution is that on 22.01.2025, based on the secret information, the respondent-police conducted a search and found that the petitioners were found in possession of 66.540 kg of banned tobacco products worth of Rs.43,376/- in their petty shop for illegal sale. Hence, the case.

4. Mr.D.R.Murugesan, the learned counsel for the petitioners, submits that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. He further submits that the petitioners have been in judicial custody since 22.01.2025. He further submits that a false case has been foisted against the petitioners. He, however, submits that the petitioners are ready to abide by any stringent conditions that may be imposed by this Court. Accordingly, he prays to grant bail to the petitioners.



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5. *Per contra*, Mr.K.Sanjai Gandhi, the learned Government Advocate (Criminal Side) appearing for the respondent-police, submits that the petitioners were found in possession of 66.540 kg of banned tobacco products in their petty shop and selling the same to the general public and thereby, caused injury to its customers and public health system. He further submits that the petitioners have been arrayed as A1 and A2. A1 has seven (7) previous cases which are all similar in nature and A2 has no previous cases. He further submits that if bail is granted to the petitioners, they may cause threat to the welfare of the society by selling banned tobacco products. Therefore, he vehemently opposes to grant bail to the petitioners.

6. Heard on both sides. This Court has perused the records.

7. Considering the previous cases pending against the first petitioner, this Court is not inclined to grant bail to the first petitioner. However, the learned counsel appearing for the petitioners seeks permission of this Court to withdraw the petition in respect of the first petitioner is concerned. This Court does grant permission to withdraw the original petition in regard to the first petitioner is concerned.



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8. As far as the second petitioner is concerned, the second petitioner was arrested and he has been in incarceration since 22.01.2025. The second petitioner has permanent residence. Therefore, there is less possibility of absconding. Considering the fact that there are no previous cases against the second petitioner and taking into account the period of incarceration, this Court is inclined to grant bail to the second petitioner, however, subject to the following conditions:

(i) The second petitioner shall execute a bond for Rs.25,000/- (Rupees Twenty Five Thousand only) along with two sureties each for a like sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) to the satisfaction of the learned District Munsif cum Judicial Magistrate, Peravurani, Thanjavur District.

(ii) The sureties shall affix their photographs and left thumb impression in the Application for Suretyship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Judicial Magistrate shall obtain a copy of any one of identity proofs to ensure their identity.

(iii) The second petitioner shall appear and sign before the learned District Munsif cum Judicial Magistrate, Peravurani, Thanjavur District, on all working days at 10.30 a.m. until further orders.



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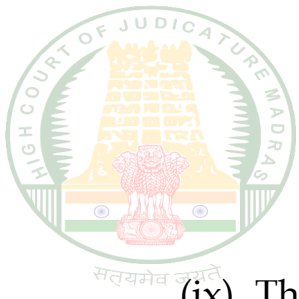
(iv) The second petitioner shall appear on all hearing dates before the learned District Munsif cum Judicial Magistrate, Peravurani, Thanjavur District, when the Court requires his appearance.

(v) The second petitioner shall attend in accordance with the conditions of the bond to be executed under Chapter XXXV of BNS, 2023.

(vi) The second petitioner shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.

(vii) The second petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

(viii) The second petitioner shall also not directly or indirectly, cause any threat to the witnesses.



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(ix) The second petitioner shall furnish his residential address and mobile number to the learned District Munsif cum Judicial Magistrate, Peravurani, Thanjavur District.

(x) On breach of any of the aforementioned conditions, the learned Judicial Magistrate or Trial Court is entitled to pass appropriate orders against the second petitioner in accordance with law as if the aforementioned conditions are imposed by him as laid down by the Hon'ble Supreme Court in *P.K. Shaji vs. State of Kerala* [(2005) 13 SCC 283].

9. Accordingly, this Criminal Original Petition is dismissed as not pressed insofar as the first petitioner is concerned and is allowed insofar as the second petitioner is concerned subject to the conditions stated *supra*.

sd/-
27/02/2025

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27/02/2025
Sub-Assistant Registrar (C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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- TO
- 1 THE DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, PERAVURANI, THANJAVUR DISTRICT.
 - 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
THANJAVUR DISTRICT AT KUMBAKONAM.
 - 3 THE INSPECTOR OF POLICE,
PERAVURANI POLICE STATION,
THANJAVUR DISTRICT.
 - 4 THE OFFICER INCHARGE,
DISTRICT PRISON, PUDUKKOTTAI.
 - 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.3755 of 2025
Date :27/02/2025

SS/SAR- /27/02/2025/ 7P/6C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023