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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 20/03/2025

PRESENT

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

CRL OP (MD) No.5083 of 2025

1.Vijay,
S/o.Sekar, Vadakkalur, Avudaiyarkovil Taluk,
Pudukkottai District.

2.Mohammed Sabibulla,
S/o.Naina Mohammed, Middle Street,
West Maruthuvakudi, Thiruvaidaimaruthur,
Pudukkottai District.

... Petitioners/ A1 & A2

Vs

The State of Tamil Nadu,
Rep. by the Inspector of Police,
Mimisal Police Station,
Pudukkottai District.
Crime No.24/2025

... Respondent/Complainant

For Petitioners: Mr.Gurumoorthy S,
Advocate

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

PETITION FOR BAIL Under Sec.483 of BNSS

PRAYER :-

For Bail in Crime No.24 of 2025 on the file of the respondent-police.



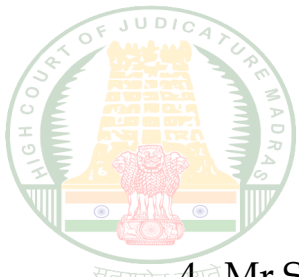
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ORDER : The Court made the following order :-

This Criminal Original Petition has been filed by the petitioners on 18.03.2025 under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, praying to grant an order of bail.

2. The petitioners were arrested and remanded to judicial custody on 01.03.2025 for the offences punishable under Section 123 of BNS r/w Sections 6(a) and 24(1) of Cigarette and Other Tobacco Products Act, 2003, in Crime No.24 of 2025 on the file of the respondent-police.

3. The case of the prosecution is that on 01.03.2025, at about 11.00 a.m., the defacto complainant, Sub-Inspector of Police, along with his police team, was conducting a search in the shop of the first petitioner/Accused No.1. At that point in time, the respondent-police noticed that the first petitioner/A1 was illegally in possession of banned tobacco products, i.e., 40 packets of hans (each containing 300 gms) and 8 packets of cool lip packets (each containing 100 gms) in a white-colored gunny bag. Based on the confession of the petitioner/Accused No.1, the second petitioner/Accused No.2 has been implicated in this case. The police team arrested the petitioners/A1 and A2 and seized the prohibited tobacco products. Hence, the complaint.



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4. Mr.S.Gurumoorthy, learned counsel appearing for the petitioners, submits that the petitioners have nothing to do with the alleged offence and that a false case has been foisted against the petitioners. He however submits that they are ready to abide by any conditions that may be imposed by this Court. He further submits that the petitioners have been in judicial custody since 01.03.2025. Hence, he prays to grant bail to the petitioners.

5. Per contra, Mr.K.Sanjai Gandhi, learned Government Advocate (Criminal Side) appearing for the respondent-police, submits that the petitioners were found in illegal possession of 12.800 kgs of banned tobacco products. He further submits that there is no previous case against the first petitioner, and there are three previous cases against the second petitioner, which all are similar in nature. He further submits that if bail is granted to the petitioners, they may commit similar offence, and endanger the health of the general public. He further submits that the first petitioner/Accused No.1 purchased the banned tobacco products from the second petitioner/Accused No.2, who purchased the said contraband from Bangalore. Therefore, he vehemently opposes to grant bail to the petitioners.

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

7. It is seen that the second petitioner has three previous cases and all the cases are similar to the present case. In view of the same, this Court is of the opinion that if



bail is granted to the second petitioner, he will commit the similar offence once again.

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Hence, this Court is not inclined to grant bail to the second petitioner.

8. As far as the first petitioner is concerned, the first petitioner has permanent residence and deep roots in the society. Therefore, there is less possibility of absconding. Considering the same, and also considering the period of incarceration suffered by the first petitioner, and taking note of the fact that there is no previous case pending against him, and with a view to give an opportunity to the first petitioner to reform himself, this Court is inclined to grant an order of bail to the first petitioner, however, subject to the following conditions:

(i) The first 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 Judicial Magistrate, Manamelkudi;

(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, Manamelkudi shall obtain a copy of any one of identity proofs to ensure their identity;

(iii) The first petitioner shall attend in accordance with the conditions of the bond to be executed under Chapter XXXV of BNS, 2023;



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(iv) The first petitioner shall not commit an offence similar to the offence of he is accused, or suspected, of the commission of which he is suspected;

(v) The first 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;

(vi) The first petitioner shall furnish his residential address and mobile number to the learned Judicial Magistrate, Manamelkudi;

vii) The first petitioner shall appear and sign before the respondent-police daily at 10.30 a.m., until further orders;

(viii) The first petitioner shall not, directly or indirectly, cause any threat to the defacto complainant and witnesses; and

(ix) On breach of any of the aforementioned conditions, learned Judicial Magistrate, Manamelkudi, is entitled to pass appropriate orders against the first 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].



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9. Accordingly, this Criminal Original Petition stands dismissed insofar as the second petitioner is concerned and stands allowed in respect of the first petitioner subject to the conditions stated supra.

sd/-
20/03/2025

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21/03/2025

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

TSG
TO

- 1 THE JUDICIAL MAGISTRATE, MANAMELKUDI
- 2 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE, PUDUKOTTAI DISTRICT.
- 3 THE OFFICER INCHARGE, SUB JAIL, ARANTHANGI.
- 4 THE INSPECTOR OF POLICE,
MIMISAL POLICE STATION,
PUDUKKOTTAI DISTRICT.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.5083 of 2025
Date :20/03/2025



NBF/GSV / SAR/ (21/03/2025) 7P/6C

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

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