



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

Tuesday, the Twenty First day of February Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL OP(MD) Nos.1363 & 1368 of 2017

P.ARUNAGIRI

... PETITIONER / ACCUSED No.2  
IN CRL OP(MD)No.1363/17

ALAGAR KARUPPASAMY

... PETITIONER/ACCUSED NO.1  
IN CRL OP(MD)No.1368/17

Vs

STATE REPRESENTED BY  
THE INSPECTOR OF POLICE  
PAVOORCHATHIRAM POLICE STATION,  
TIRUNELVELI DISTRICT  
(CR.NO. 26/2017)

... RESPONDENT / COMPLAINANT  
IN BOTH PETITIONS

For Petitioner : M/S.B.BRIJESH KISHORE Advocate  
IN CRL OP(MD)No.1363/17  
Mr.K.SIVABALAN, Advocate  
IN CRL OP(MD)No.1368/17

For Respondent : Mr.P.KANDASAMY Govt. Advocate ( Crl. Side)  
IN BOTH PETITIONS

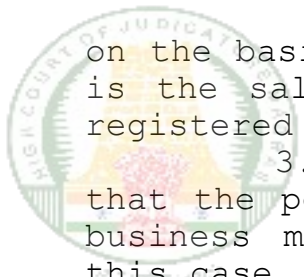
For Intervenor : Mr.M.SUBASH BABU, Advocate  
IN BOTH PETITIONS

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

ORDER : The Court Made the following order :-

The petitioners/A2 and A1 respectively in Crl.O.P.(MD)Nos.1363 & 1368 of 2017, who were arrested and remanded to judicial custody on 24.01.2017, for the offences punishable under Section 420 of IPC., and Sections 103 and 104 of Trade Mark Act, 1999, in Crime No.26 of 2017, on the file of the respondent police, seek bail.

2. The case of the prosecution is that the complainant in this case is working as sales representative of Syed Beedi Company and on 24.01.2017, the complainant found that the petitioners are in possession of Syed Beedi bundles for selling them illegally without any Trade Mark or Licence and the complainant has brought the petitioners before the respondent Police with the alleged fake Beedies and the case was registered against the petitioners herein,



on the basis of the complaint given by the defacto complainant, who is the sales representative of the Syed Beedi Company, which has registered Trade Mark.

3. The learned counsel appearing for the petitioners states that the petitioners are the licensed Beedi sellers and due to the business motive, the petitioners have been falsely implicated in this case. He would further contend that, as per FIR lodged by the defacto complainant in this case, the complainant has seized 200 bundles of 'Syed Beedi' from the petitioners herein and brought the petitioners to the Police Station, along with those seized items and on the basis of the complaint given, a case registered against the petitioners herein. It is further stated that the petitioners are not in possession of fake Beedies, affixing the label with the name of 'Syed Beedi', which has registered Trade Mark and the petitioners not authorized to sell the said Beedies. He also submitted that, as per Section 115 of the Trade Mark Act, 1999, the Deputy Superintendent of Police alone is competent officer, to search and seize the articles and the complainant has no power to seize it under the said Act. Furthermore, the Beedies seized from the petitioners herein are fake Beedies or not, has to be proved only during investigation alone. The petitioners are in custody from 24.01.2017, on the basis of the complaint given by the sales representative of 'Syed Beedi Company'. Except the alleged Beedi bundles, no other articles are seized from the petitioners which they are in custody by the competent police officer.

4. The learned counsel appearing for the intervener, who is the sales representative of the 'Syed Beedi Company' states that 'Syed Beedi Company' is a registered Firm, doing 'Beedi' business and malpractice of the accused persons resulted in huge loss of revenue to the Company. He would further submit that the petitioners herein was in possession of fake 'Syed Beedi' 200 bundles, each 100 bundles and A2 is having a previous case.

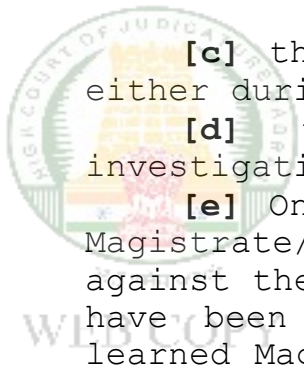
5. The learned Government Advocate (Crl.side) appearing for the respondent states that the accused are found in possession of 200 bundles of fake Beedies, by affixing the name of the company of the complainant viz., 'Syed Beedi' and the said Beedies were recovered from the accused persons and the investigation is in initial stage.

6. Considering the above facts and circumstances of the case and also considering the facts that seized alleged fake Beedies by the complainant itself, which is against the provisions of the Trade Mark Act and the period of incarceration of the petitioners, this Court is inclined to enlarge the petitioners on bail with certain conditions. Accordingly, the petitioners are ordered to be released on bail, subject to following conditions:-

(a) The petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Tenkasi.

<https://hcservices.ecourts.gov.in/hcservices/>

(b) the petitioners shall report before the respondent Police daily at 10.30 a.m., until further orders, for interrogation.



[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners shall not abscond 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]**.

sd/-

21/02/2017

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE  
TENKASI
- 2 THE CHIEF JUDICIAL MAGISTRATE  
TIRUNELVELI DISTRICT
- 3 THE INSPECTOR OF POLICE  
PAVOORCHATHIRAM POLICE STATION,  
TIRUNELVELI DISTRICT
- 4 THE SUPERINTENDENT,  
CENTRAL PRISON, PALAYAMKOTTAI
- 5 THE OFFICE INCHARGE,  
SUB JAIL, TENKASI
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.B.BRIJESH KISHORE Advocate SR.No.9432

+1cc to Mr.K.SIVABALAN, Advocate Sr.No. 9405

JAM/21.02.17 /PM/ SAR 1/ 3P-9C

ORDER

IN

CRL OP (MD) Nos.1363 &1368 of 2017

Date :21/02/2017