

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Eighteenth day of June Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice RMT. TEEKAA RAMAN

CRIMINAL ORIGINAL PETITION No.14731 of 2018

THALAPATHI MURUGESH @ [PETITIONER / ACCUSED]
THALAPATHI MURUGESAN @ MURUGESAN

Vs

STATE REP. BY ITS [RESPONDENT]
INSPECTOR OF POLICE,
SULUR POLICE STATION,
COIMBATORE DISTRICT.
CR.NO.341 OF 2018

For Petitioner : M/S.R.GANESH KUMAR Advocate

For Respondent : MR. B.ARULMOZHIMARAN Govt. Advocate

PETITION FOR BAIL 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who was arrested on 28.04.2018 for the alleged offences punishable under Sections 7 and 20(1) of the Cigarette and other Tobacco Products Act, 2003 and Sections 273 and 328 r/w. 120(B) of IPC, in Crime No.341 of 2018 on the file of the respondent police, seeks bail.

2. Learned counsel appearing for the petitioner submitted that the petitioner herein is the Ex-President of Kannampalayam Panchayat union where the alleged Gutka making factory was located. At the instance of the political party, an investigation has been carried out for manufacturing of Gutka in the State of Tamil Nadu and as the police have conducted eyewash investigation, the petitioner along with his party man have been protested in front of the factory alleging improper investigation and the investigation has not been done in proper manner and hence, the petitioner along with others conducted Tharna First Information Report was registered in Crime No.342 of 2018 and the petitioner was remanded to judicial custody on 01.05.2018 and was released on bail by the learned Judicial Magistrate, Sulur, on 04.05.2018.

3. Learned counsel appearing for the petitioner further submitted that while the things be so, the respondent police, who had raided the factory, registered First Information Report in Crime No.341 of 2018 wherein, 8 persons have been named as accused, in which A.1, who is the owner of the factory, who is still absconding and A.2 to A.8 were arrested and remanded to judicial custody and

after the petitioner came out on bail in Crime No.342 of 2018, the police have projected as if the second accused gave a confession statement on 06.05.2018 and based upon the alleged confession statement of the second accused, this petitioner was arrested and remanded to judicial custody in this case on 10.05.2018 and prayed for bail.

4. The respondent police filed counter affidavit through Public Prosecutor wherein it is stated that the second accused namely, Raghuram is the Manager and in-charge of the "Amit S Fragrances" and involved in manufacturing of banned Gutkha and he was arrested on 28.04.2018 and in his confession, he has stated that the petitioner has aided/abetted in the manufacture of Banned Gutkha, in the capacity of a President of Kannampalayam union, the petitioner has entered into a conspiracy with the first accused and has aided/abetted the first accused to manufacture the banned Gutkha.

5. In the counter affidavit, it is further stated that the second accused was taken into police custody for a period from 04.05.2018 to 09.05.2018 and while he was in custody gave confession, wherein the second accused has stated about the conspiracy between the first accused and the petitioner and also involvement of the petitioner in aiding the manufacture of banned Gutkha. In view of the said confession, as the custodial interrogation of the petitioner/A.6 was just and necessary, hence the petitioner was arrested on 10.05.2018 and during his arrest, he was not under treatment for any ailment. In the confession, the second accused has further stated that being the then President of Kannampalayam Union, misusing his position as a public servant, the petitioner has aided/abetted the said offensive activities of the first accused and other accused in manufacturing of banned Gutkha within the limits of Kannampalayam Union, by receiving illegal gratification.

6. In the counter affidavit, it also stated that the petitioner has aided/abetted the first accused to manufacture the banned Gutkha knowing very well that the said factory was functioning in an agricultural land. Investigation is pending and other evidence will be culled out through investigation against the petitioner. In furtherance of the conspiracy, the petitioner has aided/abetted the first accused and other accused persons in manufacturing of banned Gutkha by misusing his official position by receiving illegal gratification and also restrained the police from performing their official duty by using criminal force and for which, another case in Sular police station Crime No.342 of 2018 for the offences under Sections 147, 148, 341, 294(b), 353 and 506(ii) IPC r/w. 188 of IPC was registered. It is stated in the counter that six accused persons were involved and out of the six accused persons, A.2 to A.6 were arrested and A.1 and A.7 were still absconding.

7. It is further stated in the counter affidavit that in W.P.No.19335 of 2017, this Court has instructed the CBI to cover all aspects of the illegal manufacture, import, supply, distribution and sale of Gutkha and other forms of banned chewable tobacco items which are banned in the state of Tamilnadu. The petitioner has also

involved in an offence for which already, a case has been registered against him by Sulur Police Station in Crime No.342 of 2018, in an attempt to obstruct the investigation. In the above said case, the petitioner was arrayed as A.6.

8. Heard the learned counsel on either side and perused the records.

9. The above said case is arising out of Crime No.341 of 2018 for the alleged offences under Sections 7 and 20(1) of the Cigarette and other Tobacco Products Act, 2003 and Sections 273 and 328 r/w. 120(B) of IPC. From the remand report of the petitioner, it is seen that based upon the confession statement of co-accused A.2/Manager of the Factory, the petitioner was arrested and remanded to judicial custody.

10. This Court perused the copy of the confession statement of the second accused dated 06.05.2018 which is a further confession statement. From the records, it is seen that at the time of arrest, the second accused has given a confession statement and thereafter, in order to unearth the further involvement of the other persons and also to ascertain the modus operandi, the respondent police seems to have filed criminal miscellaneous petition seeking police custody and police custody of the second accused was given on 04.05.2018 to 09.05.2018. It appears that on 06.05.2018, the second accused has given confession statement and based upon which, the police has come to a conclusion that the petitioner herein was involved in an offence and he abetted and aided the said activities of the first accused and thereby, committed criminal conspiracy and other offences under the Cigarette and other Tobacco Products Act, 2003 and also aided the commission of the offence.

11. After going through the records, the respondent police has to conduct investigation on the place of purchase of raw material for the manufacture of Gutkha and the places of distribution of the manufacturing Gutkha and also the financial transactions that has been carried between the first accused and this petitioner aiding and abetting the commission of the crime and the same is pending in preliminary stage. Taking into account of nature and gravity of the offence and also certain facts leading to the arrest of the petitioner that has come to light in respect of this petitioner at preliminary stage, I am not inclined to grant bail to the petitioner for the present. In this view of the matter, this petition, seeking bail, is dismissed for the present.

-sd/-

18/06/2018

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE INSPECTOR OF POLICE,
SULUR POLICE STATION,
COIMBATORE DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE

+1 CC to M/S.R.GANESH KUMAR Advocate on payment of necessary
charges SR.NO. 10864

CRL OP.14731/2018

Date :18/06/2018

RD 19/06/2018