



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

Friday, the First day of February Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP (MD) No.1421 of 2019

PAWAN KUMAR

... PETITIONER / ACCUSED (SOLE)

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
FORT (LAW AND ORDER) POLICE STATION,
TRICHY DISTRICT.
CRIME NO.45/2019

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.K.PRABHU, Advocate

For Respondent : Mr.S.CHANDRASEKAR, Additional Public Prosecutor

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

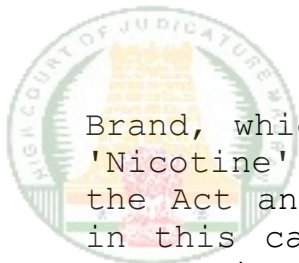
ORDER : The Court Made the following order :-

The petitioner was arrested and remanded to judicial custody since 20.01.2019 for the offences punishable under Section 328 of I.P.C. r/w 24(1) Cigarette and Other Tobacco Products Act (COTPA), 2003, in Crime No.45 of 2019, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 20.01.2019 while the defacto complainant came in the Nadu Gujili Street, he saw a boy used tobacco and hence the defacto complainant asked the boy where they got the tobacco for the boy as replied that it is available in the Godown of 'Sri Naked Agencies' and he asked the petitioner whether the things are kept for sale for that he replied yes and he is selling as whole sale and retail also and hence the defacto complainant had given complainant as against the petitioner.

3. The learned counsel for the petitioner would submit that the petitioner the material in this case is not a Gutkha and it is not prohibited material so far as Cigarette and Tobacco Prohibited Act, 2003 and the petitioner has been falsely implicated in this case and he has not committed any offence as alleged by the prosecution.

4. The learned Additional Public Prosecutor would submit that the seized items ie., 4976 packets of Hans and 34 packets of Mono



Brand, which were recovered from the shop of the petitioner contain 'Nicotine' which should be considered as an offence as defined under the Act and custodial Interrogation of the petitioner is necessary in this case. He would further submit that the Chemical Analysis report is awaited and hence this bail application may be dismissed.

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5. Considering the facts and circumstances of the case and also considering the period of incarceration of the petitioner, this Court is inclined to grant bail to the petitioner.

6. Accordingly, the petitioner is ordered to be released on bail on his executing a 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 No.1, Tiruchirappalli and on further condition that:

[a] the petitioner shall report before the respondent police daily at 10.30 a.m and 05.30 p.m until further orders.

[b] the petitioner shall not abscond either during investigation or trial.

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

[d] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner 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]**.

[e] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-

01/02/2019

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

TO

1. THE JUDICIAL MAGISTRATE NO.I, TIRUCHIRAPPALLI.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUCHIRAPPALLI DISTRICT.
3. THE SUPERINTENDENT,CENTRAL PRISON, TRICHY.
4. THE INSPECTOR OF POLICE,
FORT (LAW AND ORDER) POLICE STATION, TRICHY DISTRICT.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. CC to Mr.K.PRABHU Advocate SR.No.2163

ORDER IN

CRL OP(MD) No.1421 of 2019

Date :01/02/2019