



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Fifth day of August Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.15217 of 2021

MODIYA @ MODARAM

[PETITIONER / ACCUSED]

Vs

STATE REP BY
THE E-3, SARAVANAMAPATTY POLICE STATION
COIMBATORE DISTRICT.
CR.NO. 2330 OF 2020

[RESPONDENT]

For Petitioner : M/S.T.NIXON Advocate

For Respondent : M/S. C.E.PRATAP, Govt. Advocate (Crl. Side)

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence under Sections 328 of IPC and under Section 7(2) of Cigarette and Other Tobacco Products Act 2003, in Crime No.2330 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner along with other accused were found in illegal possession of 238 bags of banned Tobacco products each containing 50 grams. Hence, the complaint.

3. The learned counsel appearing for the petitioner submitted that earlier anticipatory application filed by the petitioner was dismissed by this Court in Crl.O.P No.2239 of 2021 on 17.02.2021. However, on instructions, the learned counsel further submitted that the petitioner, without prejudice his rights, on his own volition, is ready and willing to contribute a sum of Rs.50,000/- for the purpose of improving and maintaining the Government Schools.

4.The learned Government Advocate (Crl.Side) submitted that there is no previous cases pending against the petitioner. However, he vehemently opposed for grant of anticipatory bail to the petitioner.



5.Considering facts and circumstances of the case and also the fact that there is no previous case pending as against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner.

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6.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate-II, Coimbatore, on condition that the petitioner shall execute 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a) if the petitioner failed to surrender before the concerned Magistrate within a period of 15 days from the date of receipt of a copy of this order, this order shall stand automatically cancelled;

(b) the petitioner shall make a non-refundable deposit of Rs.50,000/- (Rupees Fifty Thousand only) to the credit of the Chief Educational Officer, Coimbatore District, for the rehabilitation and improvement of the basic needs of the Government Schools in the said District under necessary acknowledgement, without prejudice to his defence before the trial Court and submit the proof of payment of the said amount before the aforesaid learned Judicial Magistrate, who after perusing the challan/ receipt/acknowledgement, shall accept the sureties furnished by the petitioner;

(c)the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(d)the petitioner shall report before the respondent police daily at 10.30 a.m. until further orders;

(e)the petitioner shall not tamper with evidence or witness either during investigation or trial;

(f)the petitioner shall not abscond either during investigation or trial;

(g)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]; and;



(h)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

7. In the result, this Criminal Original Petition is ordered and the Chief Educational Officer shall submit the necessary proof with regard to the expenditure incurred for the improvement/rehabilitation of the Schools in the District before the Director of School Education as and when such works are completed by utilising the money as ordered by this Court.

-sd/-

25/08/2021

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 JUDICIAL MAGISTRATE NO.II,
COIMBATORE

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
E-3, SARAVANAMAPATTY POLICE STATION
COIMBATORE DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE CHIEF EDUCATIONAL OFFICER
COIMBATORE DISTRICT

+1 CC to M/S.T.NIXON Advocate on payment of necessary charges
SR.No.9047

CRL OP.15217/2021

Date :25/08/2021

APN 31/08/2021