



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

Date : 19/05/2021

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL OP(MD) . No.6777 of 2021

Ganesan

... Petitioner/2nd Accused

Vs

State Through,
The Sub Inspector of Police,
Devarkulam Police Station,
Tirunelveli District.
Crime No.115 of 2021.

... Respondent/Complainant

For Petitioner : Mr.V.Kathirvelu for Mr.K.Prabhu,
Advocate.

For Respondent : Mr.M.Muthumanickam,
Government Advocate (Crl.Side)

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

PRAYER :- For Anticipatory Bail in Crime No.115 of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 328 of IPC and Sections 6(b) and 24(1) of Cigarette and other Tobacco Products Act, 2003 r/w. Section 77 of Juvenile Justice (Care and Protection of Children) Act, 2015 in Crime No.115 of 2021 on the file of the respondent police, seeks anticipatory bail.

2.Heard both sides.

3.On 20.04.2021, when the respondent police were on official duty in checking vehicle, they found that the accused were in illegal possession of tobacco products weighing about 606 kgs in separate gunny bags. Hence, this case has been registered.

4.The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has not committed any

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offence as alleged by the prosecution and only based on the confession of A1, the petitioner has been implicated in the present case and hence, he seeks anticipatory bail.

5.The learned Government Advocate (criminal side), on instructions, submitted that both the petitioner(A2) and A1, who are brothers, were illegally selling Tobacco in Tamil Nadu. Only based on the confession statement of A1, the case has been registered against the petitioner and A1 was still custody.

6.Considering the facts and circumstances of the case and the fact that only based on the confession statement of A1, the case has been registered against the petitioner and the involvement of the petitioner in the case can be decided only after the investigation and trial, this Court is inclined to grant anticipatory bail to the petitioner on certain conditions.

7.Accordingly, the petitioner is ordered to be released on bail in the event of arrest by the respondent police on executing personal bond for a sum of Rs.10,000/- [Rupees Ten Thousand only] with two sureties each for a likesum to the satisfaction of the respondent police and on further condition that the petitioner shall appear before the learned Judicial Magistrate No.III, Tirunelveli, and execute a fresh personal bond for a sum of Rs.10,000/- [Rupees Ten Thousand only] with two sureties each for a likesum to the satisfaction of the concerned Judicial Magistrate, within a period of one month, from the date of resumption of regular work in subordinate Courts in view of the present pandemic situation and on further conditions that:

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

(b)the petitioner shall appear before the respondent police, once in two weeks i.e., on Monday, at 10.30 a.m., until further orders;

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

(d)the petitioner 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 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;



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

sd/-
19/05/2021

WEB COPY

/ TRUE COPY /

/ /2021

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

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE JUDICIAL MAGISTRATE NO.III, TIRUNELVELI.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
3. THE SUB INSPECTOR OF POLICE,
DEVARKULAM POLICE STATION,
TIRUNELVELI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.6777 of 2021
Date :19/05/2021

LS/MRN
MS/PN/SAR-3/25.05.2021/3P.5C