



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

Date : 11/06/2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD). No.7654 of 2021

Dakshinamoorthy

... Petitioner/Accused

Vs

State Rep.by
The Inspector of Police,
Kumbakonam Taluk Police Station,
Kumbakonam, Thanjavur District.
Crime No.153/2021.

... Respondent/Complainant

For Petitioner : Mr.S.Krishnan,
Advocate.

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

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

PRAYER :- For Bail in Crime No.153 of 2021 on the file of the respondent police.

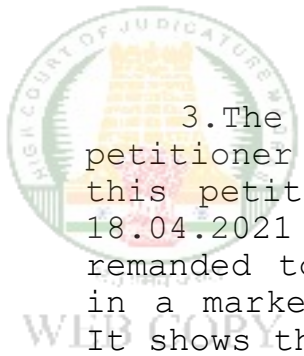
ORDER : The Court made the following order :-

The petitioner/accused, who was arrested and remanded to judicial custody on 19.04.2021 for the offences punishable under Section 328 of IPC r/w 24(I) of Cigarette and other Tobacco Products Act 2003 in Crime No.153 of 2021 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 18.04.2021, when the police, on prior intimation, made a search of the godown of the petitioner situated in Mangudi Street behind Tharasuram Market, they found that the petitioner stocked 1230 kg of banned Tobacco and Kutkha products. The details of which are as follows:-

- 1.Hans-13 bags
- 2.sini-sini-2 bags-60kgs
- 3.vimal pakku-18 bags
- 4.Vimal V-1 Tobacco-1 bundle
- 5.Cool leaf filter-3 bundle 110kgs
- 6.RMD Tobacco Powder-1 bundle 12kgs
- 7.RMD 1 bundle-26 kgs

<https://hcservices.courts.gov.in/hcservices/> ~~Entered~~ the case came to be registered.



3.The learned counsel for the petitioner would submit that the petitioner is an innocent and a false case has been foisted against this petitioner. The First Information Report was registered on 18.04.2021 and in this case, the petitioner was arrested and remanded to judicial custody on 19.04.2021. The godown is situated in a market area and no independent witnesses have been examined. It shows that the case is a *prima facie* false case. He would further submit that the petitioner has symptoms of Covid-19 and hence, he would pray for granting bail to the petitioner.

5.The learned Government Advocate(Crl.Side) appearing for the respondent police opposed this petition on the ground that the investigation in this case is not completed and the co-accused in this case is still absconding. He would further submit that the total contraband is worth about Rs.5,00,000/-.

6.It is seen from the First Information Report that since the general public was not willing to be the witnesses for the recovery, the seized property were recovered in the presence of police officials.

7.Considering the fact that the petitioner is in judicial custody from 19.04.2021 and also the submission made by the learned counsel for the petitioner that the petitioner has symptoms of Covid-19, this Court is inclined to grant bail to the petitioner.

8.Accordingly, the petitioner is ordered to be released on bail on executing his own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the Jail Authority. The petitioner after his release shall surrender before the concerned Judicial Magistrate voluntarily on any working day within a period of one month from the date of resumption of regular work in the Subordinate Courts and 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 learned Judicial Magistrate Court No.II, Kumbakonam, Thanjur District. On such execution of bond before the concerned Magistrate, the own bond executed before the Jail Authority shall stand cancelled automatically.

i)the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity.

(ii) the petitioner shall make a non refundable deposit of **Rs.25,000/- (Rupees Twenty Five Thousand only)** to the credit of Cancer Institute (WIA),No.38, Sardar Patel Road, Adyar, Chennai-20, without prejudice to his rights and contentions before the trial Court and produce the receipt/acknowledgment before the learned Judicial Magistrate Court No.II, Kumbakonam, Thanjur District.



iii)the petitioner shall report before the respondent police daily at 10.30 am., until further orders.

iv)the petitioner shall not tamper with evidence or witness.

v)the petitioner shall not abscond during trial.

vi)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].

vii)If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

11/06/2021

/ TRUE COPY /

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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.II,
KUMBAKONAM, THANJAVUR DISTRICT.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.
3. THE SUPERINTENDENT,CENTRAL JAIL,
PUDUKKOTTAI.
4. THE INSPECTOR OF POLICE,
KUMBAKONAM TALUK POLICE STATION,
KUMBAKONAM, THANJAVUR DISTRICT.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,MADURAI.

COPY TO:

THE OFFICER INCHARGE,
CANCER INSTITUTE (WIA),
NO.38, SARDAR PATEL ROAD, ADYAR, CHENNAI-20

ORDER IN

CRL OP(MD) No.7654 of 2021

Date :11/06/2021

SJI

<https://hmcj.csls.gov.in/SJI/In/Sc/services/06.2021/3P.7C>