



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

Date : 21/06/2021

PRESENT

The Hon'ble Mrs.Justice S.ANANTHI

CRL OP(MD No.7891 of 2021

G.Mahalingam

... Petitioner/Accused No.2

Vs

The State rep. by
The Inspector of Police,
Devarkulam Police Station,
Tirunelveli District.
(Crime No.114 of 2021).

... Respondent/Complainant

For Petitioner : Mr.Gangai Amaran, Advocate.

For Respondent : Mr.R.M.S.Sethuraman,
Government Advocate (Criminal Side)

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

PRAYER :- For Anticipatory Bail in Crime No.114 of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/A-2, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Section 328 of IPC r/w Sections 6(b), 24(1) of Cigarettes and Other Tobacco Products Act, 2003 and Section 77 of Juvenile Justice (Care and Protection of Children) Act, 2015, in Crime No.114 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that on 20.04.2021 at about 19.30 hrs., when the defacto complainant/Sub-Inspector of Police, along with other police constables was on vehicle check-up at Vanniconendal Primary Health Centre, they intercepted in an Omni Car and found 36.500 kgms of Panmasala. Subsequently, on enquiry, they came to know that the above prohibited things were belonging to the petitioner and he kept the Tobacco in his agricultural land. Thereafter, the defacto complainant along with his police parties went there and recovered 1,397 kilograms of Tobaccos of various brand. The said Tobacco are prohibited by the Government to purchase it from the outside area and to sell it to the public and to the students for earning high profit. Hence, the case has been registered against the petitioner and one another.

3. Heard the learned counsel appearing for the petitioner and

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the learned Government Advocate (Criminal Side) appearing for the respondent police.

4. The learned counsel for the petitioner submitted that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. He further submitted that he has been falsely implicated in this case. Hence, he prayed for grant of anticipatory bail to the petitioner.

5. The learned Government Advocate (Criminal side) appearing for the respondent police, on instructions submitted that this petitioner is arrayed as A-1. He further submitted that the co-accused was already released on bail by order of the learned Principal District Judge, Tirunelveli, in Crl.MP No.3584 of 2021, dated 09.06.2021. He further submitted that 1400 Kgms of banned Tobacco and properties were seized.

6. Considering the facts and circumstances of the case and considering the fact that co-accused was already released on bail by order the Court below and 1400 Kgms of banned Tobacco and properties were seized, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail in the event of surrender 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 No.III, Tirunelveli, 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:

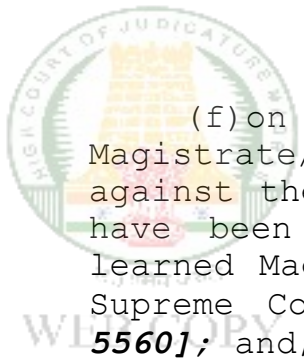
[a]the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) the petitioner shall contribute 25 Kgs of branded Ponni rice to **Rojavanam, Home for Aged and Poor, Melur Road, Uthangudi, Madurai** without prejudice to his defence before the trial Court and on production of proof for such contribution being made, the learned Magistrate shall accept the sureties furnished by the petitioner.

(c)the petitioner shall report before the respondent police daily at 10.00 a.m., for a period of 30 days.

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

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



(f) 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;

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

sd/-
21/06/2021

/ 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 INSPECTOR OF POLICE,
DEVARKULAM POLICE STATION,
TIRUNELVELI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE OFFICER INCHARGE,
ROJAVANAM, HOME FOR AGED AND POOR,
MELUR ROAD, UTHANGUDI,
MADURAI.

ORDER
IN
CRL OP(MD) No.7891 of 2021
Date :21/06/2021

KSA

<https://hcmr.cse.judis.gov.in/Services/06.2021/3P/6C>