



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

Date : 25/08/2021
PRESENT

WEB COPY

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . No.12192 of 2021

Sengan @ Chinnasengan

... Petitioner/Accused No.1

Vs

The State rep.by
The Inspector of Police,
Puliankudi Police Station
Tenkasi District
Crime No.406 of 2021

... Respondent/Complainant

For Petitioner : Mr.V.KATHIRVELU,
Senior Counsel
For MR.K.PRABHU
Advocate.

For Respondent : Mr.T.SENTHILKUMAR,
Government Advocate (Crl.Side)

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

PRAYER :-

For Bail in Crime No.406 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/A1, who was arrested on 02.08.2021, for the offence punishable under Sections 273 and 328 I.P.C and Section 24 (1) of Cigarettes and Other Tobacco Products Act, 2003, in Crime No.406 of 2021 on the file of the respondent police, seeks bail.

2. The case of prosecution that on 02.08.2021 at around 6.30 a.m, when the respondent Police was in patrol, they found the petitioner and four others standing near a lorry bearing registration number TN 93 C 0581, in a suspicious manner. On enquiry, they found banned tobacco products in the lorry, in huge quantity, amounting to a sum of Rs.12,00,950/-. Hence, the case.

3.Mr.V.Kathirvelu, learned Senior Counsel for the petitioner submitted that the petitioner is an innocent and has not committed any offence as alleged by the prosecution. He further submitted that as per Section 24(1) of of Cigarettes and Other Tobacco Products



Act, 2003, the maximum punishment for the said offence is only Rs.200/- . Apart from Section 24(1) of the Cigarettes and Other Tobacco Products Act, 2003, the petitioner was charged for the offence under Sections 273 & 328 I.P.C, of which, the offence under Section 273 I.P.C is a bailable one.

WEB COPY

4. The learned Senior Counsel further submitted that insofar as the offence under Section 328 IPC is concerned, the said Section contemplates that "whoever administers to or causes to be taken by any person any poison or any stupefying, intoxicating or unwholesome drug, or other thing with intent to cause hurt to such person, or with intent to commit or to facilitate the commission of an offence or knowing it to be likely that he will thereby cause hurt, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine". But, in this case, the allegation is that the petitioner was found in possession of tobacco products alone. Therefore, he prayed for grant of bail to the petitioner. He further submitted that the petitioner, in order to show his bona fide, is prepared to pay a sum of Rs.50,000/- to any orphanage, without prejudice his defence before the trial Court.

5. The learned Government Advocate(Crl.Side) appearing for the respondent police, on instructions, would submit that the final report is yet to be filed.

6. Considering the facts and circumstances of the case, nature of allegation levelled against the petitioner, the fact that apart from the offence under Section 328 IPC, the other offences are bailable, the period of incarceration and the willingness of the petitioner to pay a sum of Rs.50,000/- to any orphanage, without prejudice to his defence before the trial Court, this Court is inclined to grant bail to the petitioner.

7. Accordingly, this Criminal Original Petition is allowed and 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, Sivagiri 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 pay a sum of Rs.50,000/- (Rupees fifty thousand only) to the Sivananda Tapovanam, Sivananda Nagar, Thoppur, Madurai 625 008 without prejudice his defence before the trial Court. The petitioner shall execute the sureties on showing the receipt of the said amount.

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

[d] the petitioner shall not abscond either during



[e] the petitioner shall not tamper with evidence or witness 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]**.

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

sd/-

25/08/2021

/ 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
SIVAGIRI.
- 2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
- 3.THE SUPERINTENDENT
CENTRAL PRISON, PALAYAMKOTTAI
- 4.THE INSPECTOR OF POLICE,
PULIANKUDI POLICE STATION
TENKASI DISTRICT
- 5.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:

THE SIVANANDA TAPOVANAM,
SIVANANDA NAGAR, THOPPUR, MADURAI 625 008.

+1. CC to Mr.K.PRABHU, Advocate SR.No.5665

ORDER IN

CRL OP(MD) No.12192 of 2021

Date :25/08/2021

SA/VR/SAR.2/25.08.2021/3P/8C

<https://hcservices.ecourts.gov.in/hcservices/>