



WEB COPY

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

Date : 08/09/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.12984 of 2021

Thirupathi, ... Petitioner/Accused Rank Not Known

Vs

The State Rep. by
The Inspector of Police,
Mannachanallur Police Station,
Trichy District.
Cr.No. 461 of 2021.

... Respondent/Complainant

For Petitioner : M/s.Lenin Kumar T,
Advocate.

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

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

PRAYER :-

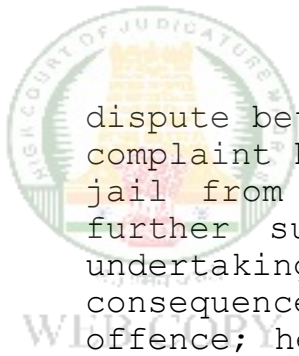
For Bail in Crime No.461 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who was arrested on 25.08.2021, for the offence punishable under Section 328 IPC r/w. Sections 6(a) & 24(1) of Cigarette and Other Tobacco Products Act, 2003, in Cr.No.461 of 2021 seeks bail.

2. The case of the prosecution is that the petitioner, who runs a Grocery shop, was selling banned products, namely, Gutkha and Tobacco, in his shop.

3. The learned counsel for the petitioner submits that the petitioner is an innocent and he has not committed any offence as alleged by the prosecution. He further submits that due to previous



dispute between the petitioner and the defacto complaint, this false complaint has been lodged. However, the petitioner is languishing in jail from 25.08.2021. Hence, he prayed for grant of bail. He further submits that the wife of the petitioner has filed an undertaking affidavit before this Court that without knowing the consequences, her husband/petitioner herein had indulged in the said offence; he will never indulge in any such offence in future and he is also ready to pay a sum of Rs.5,000/-, the worth of the contraband, to the Chief Minister's Public Relief Fund.

4. The learned Government Advocate (Crl. Side) opposed for grant of bail on the ground that the investigation is yet to be completed. However, he fairly submits that the petitioner is not having any previous case.

5. Considering the facts and circumstances of the case, the nature of allegations levelled against the petitioner, the period of incarceration and the undertaking affidavit filed by the wife of the petitioner before this Court that her husband will not indulge in any such offence in future and he is also ready to pay a sum of Rs.5,000/-, the worth of the contraband to the Chief Minister's Public Relief Fund, this Court is inclined to grant bail to the petitioner.

6. Accordingly, the Criminal Original Petition is ordered. The petitioner is directed 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 No.III, Trichy 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.5,000/- (Rupees Five Thousand only) to the Tamil Nadu Chief Minister's Relief Fund** and produce the receipt/acknowledgment before the concerned Court while executing sureties.

[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 investigation or trial.

[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/-
08/09/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

OGY

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 learned Judicial Magistrate No.III, Trichy.
2. Do-Through The Chief Judicial Magistrate, Trichy District.
3. The Superintendent, Central Prison, Trichy.
4. The Inspector of Police,
Mannachanallur Police Station, Trichy District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy to
The Officer Incharge,
Chief Minister's Public Relief Fund,
Finance(CMPRF) Department,
Government of Tamil Nadu,
Secretariat, Chennai 600 009.

ORDER IN
CRL OP(MD) No.12984 of 2021
Date : 08/09/2021

TR/SKN/SAR-III (08.09.2021) 3P 7C