



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 13/09/2021
PRESENT

The Hon'ble Mr.Justice B.PUGALENDHI

CRL OP(MD). Nos.12948 & 13098 of 2021

1.Umapathi
2.Venkadesan
3.Karthikeyan
4.Murugananadham

.. Petitioners/
Accused No.2,4,5 & 7 in Crl.O.P.
(MD).No.12948 of 2021

N.Muruganantham .. Petitioner/Accused No.7
in Crl.O.P.(MD).No.13098 of 2021

Vs

State Rep. by
The Inspector of Police,
Budalur Police Station
Thanjavur District.
(Crime.No.391 of 2021).

... Respondent/Complainant
(in both petitions)

For Petitioners
in Crl.O.P.(MD).No.12948 of 2021
: Mr.P.Sivachandran
Advocate.

For Petitioner
in Crl.O.P.(MD).No.13098 of 2021
: Mr.T.A.Punithan
Advocate.

For Respondent
in both cases : Mr.T.Senthilkumar
Government Advocate (Crl.Side)

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

PRAYER :-

For Bail in Crime No.391 of 2021 on the file of the Respondent Police.

COMMON ORDER : The Court made the following order :-

The petitioners who were arrested on 24.08.2021 for the offence punishable under Sections 328 of IPC r/w 6(a), 6(b), 7(2), 7(5) and 241(a) of Cr.P.C. and Other Tobacco Products Act, 2003, in Crime



No.391 of 2021 on the file of the respondent police, seek bail.

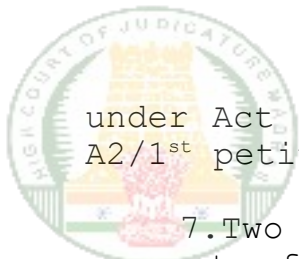
2.The accused Nos.1 and 2 are brothers and both are running a grocery shop and are jointly doing the business of Tobacco products. The fourth accused is the second accused's aunt's son. On the secret information that the second accused is selling hans pockets in the grocery shop which is situated nearby a school and hospital, the VAO, on 24.08.2021, verified the shop and found that hans pocket are sold in the shop. The accused Nos. 4 and 5 have aided to keep the hans pockets in their houses and the seventh accused helped the accused Nos.1 and 2 to load and unload the hans pockets in van. Further sixth accused has helped the accused Nos.1 and 2 in keeping and selling the hans pockets and also purchasing the Tobacco products from its dealer. On the complaint lodged by the V.A.O., the accused persons were apprehended. Now the petitioners/accused Nos.2,4,5,7 are before this Court seeking bail.

3.Crl.O.P.(MD).No.12948 of 2021 is filed by accused Nos.2,4,5 & 7 for bail. Crl.O.P.(MD).No.13098 of 2021 is filed by the seventh accused for bail. Both the applications are filed by two counsel and for having filed two bail applications for the seventh accused, they tendered apology that by inadvertence and miscommunication, two applications have been filed by the seventh accused.

4.The learned counsel for the petitioners submit that the petitioners are innocents and they are not involved in any offence as alleged by the prosecution.

5.The learned Government Advocate (Crl. Side) appearing for the respondent police would submit that the first and second accused are brothers, who are having a grocery shop just near a High School, Budalur. They have stored banned tobacco products like hans and sold the same to the students of the nearby schools. A4 and A5 are close relatives of the A1 and A2 and they have stored the tobacco products in their houses. From the house of the A4, 27 bags of banned products and from the house of A5, 24 bags of banned tobacco products have been recovered. Insofar as A7 is concerned, he helped them to load and unload the tobacco products from the house to the grocery shop. He would further submit that considering the nature of offence, A2 was detained under Act 14 of 1982 by the District Collector/ District Magistrate, Thanjavur under P.D.No.112/2021, dated 03.09.2021.

6.Considering the allegation as against the Accused No.4 & 5 that they have purchased the banned tobacco products, stored the same and sold to the students through the grocery shop, which is nearby the school and considering the fact that huge quantity of these banned items have been recovered from the house of accused No.4 and 5, this Court is not inclined to grant bail to the Accused No.4 and 5 and Crl.O.P.(MD).No.12948 of 2021 is dismissed in respect of Accused Nos.4 and 5. Since A2 was already detained



under Act 14 of 1982, this petition is also dismissed in respect of A2/1st petitioner.

7. Two different counsel have filed two petitions for bail in respect of A7 for which, they have tendered apology. Considering the fact that A7 is only a load man and that he is not having any previous case, this Court is inclined to grant bail to A7/4th petitioner in Crl.O.P.(MD).No.12948 of 2021 and sole petitioner in Crl.O.P.(MD).No.13098 of 2021.

8. Accordingly, these Criminal Original Petitions are allowed in respect of A7 and the A7 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, Thiruvaiyaru, 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 Aadhaar card or bank pass book to ensure their identity.

[b] the Accused No.7 shall appear before the respondent police daily at 10.30 a.m until further orders.

[c] the Accused No.7 shall not tamper with the evidence or witness either during investigation or trial.

[d] the Accused No.7 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 Accused No.7 in accordance with law as if the conditions have been imposed and the Accused No.7 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]**.

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

sd/-
13/09/2021

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

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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, Thiruvaiyaru.
2. Do Through
The Chief Judicial Magistrate,
Thanjavur District at Kumbakonam.
3. The Superintendent, Sub Jail, Thanjavur.
4. The Inspector of Police,
Budalur Police Station
Thanjavur District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER IN
CRL OP(MD) Nos.12948 & 13098 of 2021
Date : 13/09/2021

TR/PN/SAR-I(13.09.2021) 4P 6C