



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 07/10/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.15379 of 2021

Manickaraj

... Petitioner/Accused No.6

Vs

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

... Respondent/Complainant

For Petitioner : Mr.S.Alagusundar,
Advocate.

For Respondent : Mr.P.Kottai Chamy,
Government Advocate (Crl.Side)

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

PRAYER :-

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

ORDER : The Court made the following order :-

The petitioner/A6, who apprehends arrest at the hands of the respondent Police, for the offence punishable under Sections 328 of IPC r/w. 6(a), 6(b), 7(2), 7(5) and 24(1) of Cigarette and other Tobacco Products Act, 2003, in Crime No.391 of 2021, on the file of the respondent Police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner/A6 transmitted gutka goods from A3 to A1, A2 and A4.

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. However, to show his *bona fide*, he spent a sum of Rs.25,000/- towards cleaning of the playground of Boys Higher Secondary School at Cithayal, Thanjavur District and also ready to pay further a sum of Rs.50,000/- to any organization



as directed by this Court. He further submitted that the petitioner is ready to file an undertaking affidavit stating that he will not indulge any offence in future. Therefore, he seeks anticipatory bail to the petitioner.

4. The learned Government Advocate (Crl. Side) submits that the petitioner/A6 transmitted the gutka goods to A1 and A1 sold the same in the nearby Schools and spoiled the life of several children.

5. Considering the facts and circumstances of this case, the antecedent of the petitioner and his willingness to pay a sum of Rs.50,000/-, this Court is inclined to grant anticipatory bail to the petitioner. Accordingly, this Criminal Original Petition is allowed on condition that the petitioner shall pay a sum of Rs.50,000/- (Rupees Fifty Thousand Only) in favour of the District Green Committee, Thanjavur District, without prejudice to his rights and contentions before the trial Court and produce the receipt / acknowledgment before the learned Judicial Magistrate, Thiruvaiyaru, Thanjavur District.

6. The District Green Committee, which was formed as per the Government Order in G.O.Ms.No.39, Environment, Climate Change and Forest (FR.13) Department, dated 02.07.2021, pursuant to the directions of this Court in W.P.No.11094 of 2021, shall utilize the amount paid by the petitioner for plantation of trees on either side of the road, tree guard, drip irrigation, manure, etc., with public participation, including, NGOs, Confederation of Industries, Rotary Clubs, Lions Clubs, School Students, College Students, Self Help Groups, labours under MGNREGS and any other volunteers, etc., to achieve 100% survival rate of the planted trees. The State Green Committee shall extend their support in this regard by recommending the correct variety / species of trees, in accordance with the soil type and climatic conditions and also for the maintenance. The maintenance of the trees planted has to be reviewed by the District Green Committee, after two years and necessary appreciations have to be made to the stakeholders concerned in the form of certificates.

7. On production of receipt / acknowledgement for having paid the amount before the District Green Committee, the petitioner is ordered to be released on bail in the event of arrest 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, Thiruvaiyaru, Thanjavur District, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions that:

[a] the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the learned Judge may obtain a copy of their Aadhaar card or bank pass book to ensure their identity.



[b]the petitioner shall report before the respondent police daily at 10.30 am., until further orders.

[c]The petitioner is directed to file an undertaking affidavit stating that he will not indulge this kind of offence in future before the trial Court as well as before the respondent police.

[d]the petitioner shall not tamper with the evidence or witness either during investigation or trial.

[e]the petitioner shall not abscond either during the 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 229-A IPC.

Sd/-
07/10/2021

/ TRUE COPY /

/ /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,
THANJAVUR DISTRICT.
2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.
3. THE INSPECTOR OF POLICE,
BUDALUR POLICE STATION,
THANJAVUR DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.



COPY TO

1. THE STATE GREEN COMMITTEE,
CHENNAI.

2. THE DISTRICT GREEN COMMITTEE,
THANJAVUR DISTRICT.

+1 CC to M/s.P.SIVACHANDRAN, Advocate (SR-7125[I] dated
08/10/2021)

ORDER

IN

CRL OP (MD) No.15379 of 2021

Date : 07/10/2021

VB/SKN/SAR-II/20.10.2021/4P/8C