



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 22/10/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI
CRL OP(MD) . No.15722 of 2021

1. Sounder @ Sounder Rajan

2. Selvakumar ... Petitioner/Accused No.3 & 4

Vs

The State represented by
The Inspector of Police,
Tamil University Police Station,
Thanjavur District.
Cr.No.591 of 2021. ... Respondent/Complainant

For Petitioners : M/s. Mahendrapathy.S,
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.591 of 2021 on the file of
the Respondent Police

ORDER : The Court made the following order :-

The petitioners/A3 and A4, apprehending arrest at the hands of
the respondent police for the alleged offence punishable under
Section 328 r/w Sections 6(a), 6(6) and 24(D) of the Cigarettes and
Other Tobacco Products Act, in Crime No.591 of 2021, seek
anticipatory bail.

2.The case of the prosecution is that on 15.07.2021, the
respondent police intercepted a TATA-AC Van over suspicion and upon
search, it was found that 75 gunny bags containing of tobacco
products were hidden inside it. Therefore, the respondent police
arrested A1 and A2 and seized the vehicle. Hence, the case was
registered and on enquiry, A1 stated that the said tobacco products
belonged to the petitioners/A3 and A4 and his vehicle was hired by
them for transporting to another place. Based on his confession
statement, the petitioners were arrayed as accused in this case.



3.The learned counsel for the petitioners submits that the petitioners are representatives of the company, which is manufacturing cosmetics products and distributing the same to other shops. He further submits that A1's vehicle is one among the several vehicles belonging to various other persons, hired by the petitioners for transporting the cosmetics products. The learned counsel denied the fact that A1's vehicle alone is being used by them for transportation purpose. According to them, like A1's vehicle, they have also hired other vehicles belonging to several other persons for transportation purpose, taking into account of the circumstances. He further submits that the petitioners are innocents, they are in no way connected with the tobacco products seized from A1 and nothing was recovered from these petitioners and only based on the confession statement given by A-1, the petitioners were implicated as accused in this case. He would further submit the affidavit filed by the petitioners that they are ready to deposit a sum of Rs.3,00,000/- (Rupees Three Lakhs Only) to the credit of Crime No.591 of 2021 before the learned Judicial Magistrate No.II, Thanjavur. However, to show their *bona fide*, they are prepared to pay a sum of Rs.3,00,000/- each, to any organization as directed by this Court.

4.The learned Government Advocate (Crl. side) for the respondent police, on instructions, submits that the petitioners are the main accused in this case and they are the owner of the properties, which are recovered. The call details have also been collected, which reveal that the petitioners have frequently contacted the co-accused. The investigation is at a crucial stage and Tobacco products involved in 75 bags were seized. Only by arresting these petitioners, the entire truth will come to light and the custodial interrogation of the petitioners is very much necessary in this case. Hence, he strongly opposed for grant of anticipatory bail to the petitioners.

5.Considering the facts and circumstances of this case, the affidavit filed by the petitioners and their willingness to pay a sum of Rs.3,00,000/-each, this Court is inclined to grant anticipatory bail to the petitioners. Accordingly, this Criminal Original Petition is allowed on condition that the petitioners shall pay a sum of Rs.3,00,000/- (Rupees Three Lakhs Only) each, in favour of the District Green Committee, Thanjavur District, without prejudice to their rights and contentions before the trial Court and produce the receipt / acknowledgment before the learned Judicial Magistrate No.II, Thanjavur.

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 services provided by the petitioners 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 petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Thanjavur, on condition that the petitioners shall execute a bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) with common sureties for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions that:

[a] the persons who are giving sureties should be respectable persons in their locality, either Government Servants or elected people representatives or the persons who are having permanent business establishments,

[b] the sureties shall affix their photographs and left thumb impression in the surety bond and the Judge may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

[c] The petitioners shall not misuse the liberty granted to the petitioner by this Court and if the petitioner is involved in any further offence, the respondent police shall inform the same to the concerned Court. The concerned Court shall impound the sureties amount;

[d] the petitioners shall report before the respondent police daily at 10.30 a.m., until further orders.

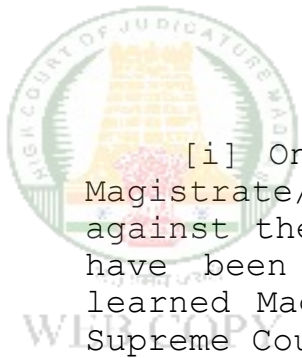
[e] The petitioners are directed to file a undertaking affidavit before the respondent police as well as the trial Court that the petitioners will not indulge any offence in future.

[f] the petitioners are directed to deposit a sum of Rs.3,00,000/- (Three Lakhs Only) each, to the credit of Crime No.591 of 2021 before the learned Judicial Magistrate No.II, Thanjavur.

[g] the petitioners shall not abscond during the trial;

[h] the petitioners shall not tamper with the evidence or

<https://www.hcjd.madras.gov.in/home>



[i] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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]**.

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

sd/-
22/10/2021

/ 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.II,
THANJAVUR.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.
- 3 THE INSPECTOR OF POLICE
TAMIL UNIVERSITY POLICE STATION,
THANJAVUR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- 5 THE DISTRICT COLLECTOR,
THE DISTRICT GREEN COMMITTEE,
THANJAVUR.
- 6 THE OFFICER INCHARGE,
THE STATE GREEN COMMITTEE, CHENNAI.

ORDER
IN
CRL OP(MD) No.15722 of 2021
Date :22/10/2021

SS/SKN/SAR-II/27.10.2021 : 4P/7C

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