



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 28/10/2021
PRESENT

WEB COPY

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.16540 of 2021

Rakesh Kumavath

... Petitioner/Accused No.5

Vs

The State rep.by
The Inspector of Police,
Vachakkarapatti Police Station,
Viruthunagar District.
Crime No.179/2021

... Respondent/Complainant

For Petitioner : Mr.Mr.G.KARUPPASAMY PANDIAN, Advocate
for S.SARAVANAN, Advocate.
For Respondent : Mr.A.THIRUVADI KUMAR,
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime No.179 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A5, who was arrested on 05.10.2021, for the offence punishable under Sections 328 IPC r/w. 6(b) and 24(1) of Cigarette and other Tobacco Products Act, 2003, in Crime No.179 of 2021, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner and other accused were unloading banned tobacco products worth about Rs.9,58,260/- from one load vehicle. Hence, the case.

3.The learned counsel for the petitioner submits that the petitioner's name does not find place in the FIR, but, surprisingly this petitioner has been included in the list of accused and he was arrested on 05.10.2021 without any basis and since then he has been in prison. He further submits that the petitioner is running a book shop in Kovilpatti and he has stronghold in the locality where he resides. Therefore, the petitioner is in no way connected with the alleged offence. He further submits that the entire contraband has been recovered and the investigation is almost over. Hence, he prayed for grant of bail to the petitioner.



4.The learned Additional Public Prosecutor submits that though the petitioner's name does not find place in the FIR, the investigation reveals the role of the petitioner in this crime. Further, the petitioner is the main accused in this case. Since the investigation is at the initial stage, he prayed for dismissal of the petition.

5.At this juncture, the learned counsel for the petitioner submits that the petitioner is ready to deposit a sum of Rs.4,00,000/- to the credit of Crime No.179 of 2021 before the concerned Magistrate and he is also ready to file an undertaking affidavit that he will not indulge in any other offence in future. Hence, he prayed for grant of bail to the petitioner.

6.Considering the facts and circumstances of the case, the period of incarceration and the petitioner's willingness to deposit a sum of Rs.4,00,000/- to the credit of crime number before the concerned Magistrate, this Court is inclined to grant bail to the petitioner.

7.Accordingly, this Criminal Original Petition is ordered. The petitioner is directed to be released on bail on his executing 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 Judicial Magistrate No.I, Virudhunagar, 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 report before the respondent police daily at 10.30am until further orders;

[c] the petitioner shall deposit a sum of Rs.4,00,000/- (Rupees Four Lakh only) to the credit of Crime No.179 of 2021 before the learned Judicial Magistrate No.I, Virudhunagar, within a period of two weeks from the date of receipt of a copy of this order, without prejudice to his rights and contentions before the trial Court;

[d] the petitioner shall file an undertaking affidavit before the respondent police as well as before the trial Court that he will not indulge in any other offence in future;

[e]the petitioner shall not abscond either during investigation or trial;

[f]the petitioner shall not tamper with the evidence or witness either during investigation or trial;

[g]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]**;



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

sd/-
28/10/2021

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/ /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.I
VIRUDHUNAGAR.
- 2 DO-THROUGH :THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
- 3 THE OFFICE INCHARGE
DISTRICT PRISON, VIRUDHUNAGAR.
- 4 THE INSPECTOR OF POLICE
VACHAKKARAPATTI POLICE STATION,
VIRUTHUNAGAR DISTRICT.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to Mr.SARAVANAN S Advocate SR.No.7621

**ORDER
IN**

CRL OP(MD) No.16540 of 2021
Date :28/10/2021

SA/SKN/SAR.3/28.10.2021/3P/7C