



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 01/11/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . No.16667 of 2021

Mahadevan ... Petitioner/Accused

Vs

The state represented by
The Inspector of Police,
Mathichiyam Police Station,
Madurai.

(Cr.No. 463 of 2021). ... Respondent/Complainant

For Petitioner : M/s. Durai Pandian.K.S,
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.463 of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/ accused, who was arrested on 27.09.2021 for the alleged offence punishable under Sections 6(a), 6(b), 24(1) of Cigarette and other Tobacco Products Act and 328 of IPC in Crime No.463 of 2021 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on secret information, the respondent police searched the shop of the petitioner and recovered 10 pockets of Ganesh Tobacco Products, 3 pockets of Cool Lip Tobacco Products, 29 pockets of VI Tobacco Products, 30 pockets of Mini Kutty Beedi Tobacco Products, 30 pockets of Mini Kutty Beedi Products, 15 pockets of No.91 AC Beedi Tobacco Products, 20 pockets of NC COCK Brand Tobacco Products, 10 pockets of NVS Pattinam Podi and 35 pockets of DS Pattinam Podi. Hence the complaint.



3.The learned counsel for the petitioner would submit that the petitioner is an innocent and he has not committed any offence as alleged by the prosecution. He is in judicial custody from 27.09.2021 and hence, he seeks for grant of bail to the petitioner.

4.The learned Additional Public Prosecutor appearing for the respondent opposed the grant of bail to the petitioner on the ground that the petitioner is indulging in selling the tobacco products near the school and he has involved in 14 cases.

5.Considering the antecedents, when this Court was inclined to dismiss the bail application, the learned counsel for the petitioner submitted that the petitioner has realised his mistake and that the father, wife and brother-in-law of the petitioner have filed an undertaking affidavit before this Court that the petitioner will not indulge in any other offence in future.

6.Taking into consideration of the facts and circumstances of the case, the undertaking affidavit filed by the relatives of the petitioner and also the period of incarceration, this Court is inclined to grant bail to the petitioner, however, with stringent conditions.

7. Accordingly, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.2,00,000/- (Rupees Two lakhs only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Madurai, and on further condition 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;

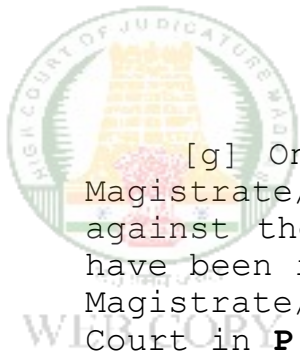
[b] The petitioner shall not misuse the liberty granted to him by this Court and if the petitioner involves in any further offence, the respondent police shall inform the same to the concerned Court. The concerned Court shall impound the sureties amount;

[c] the petitioner shall report before the respondent police daily at 10.30 a.m until further order;

[d] the father, wife and the brother-in-law of the petitioner shall file an undertaking affidavit before the respondent police as well as before the trial Court that the petitioner will not indulge in any other offence in future;

[e] the petitioner shall not abscond during the trial;

[f] the petitioner shall not tamper with the evidence or



[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/-

01/11/2021

/ 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,
MADURAI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.
- 3 THE OFFICER INCHARGE, DISTRICT PRISON,
DINDIGUL.
- 4 THE INSPECTOR OF POLICE
MATHICHIYAM POLICE STATION, MADURAI.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.16667 of 2021

Date :01/11/2021

ssb

SS/VR/SAR-I/01.11.2021 : 3P/6C