



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 24/11/2021
PRESENT

WEB COPY

The Hon`ble Mr.Justice B.PUGALENDHI
CRL OP(MD) . No.18235 of 2021

T.Maheswaran

... Petitioner/Accused No.2

Vs

The State Rep. by
The Inspector of Police,
Kurumbur Police Station,
Tuticorin District.
In Crime No.134 OF 2021

... Respondent/Complainant

For Petitioner : M/s.P.Banuprasath,
Advocate.

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

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

PRAYER :-

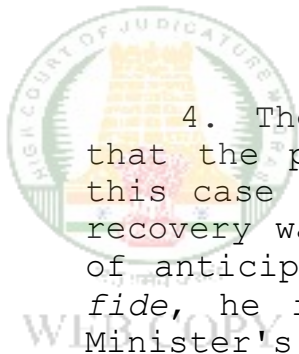
For Anticipatory bail in Crime.No.134 of 2021 on the file of
the Respondent Police

ORDER : The Court made the following order :-

The petitioner/A2, who apprehends arrest at the hands of the
respondent Police, for the offence punishable under Section 328 IPC
and Section 24(1) Cigarette and other Tobacco Products Act 2003, in
Crime No.134 of 2021, on the file of the respondent Police, seeks
anticipatory bail.

2. The case of the prosecution is that on 17.09.2021, at about
5.30 hrs., the respondent Police, on secret information, conducted a
raid at Nallumavadi channel bridge. At that time, the first accused
was riding a Mahindra Supro Mini Truck bearing Reg.No.TN37 CU 7486
and on search, they found 600 packets Ganesh 701 tobacco, 416
packets V1 tobacco, 48 Cool Lip filter tobacco, 416 packets vimal
pan masala tobacco and 50 chaini tobacco inside the vehicle. Hence,
the case.

3. This is the second anticipatory bail petition. The earlier
anticipatory bail petition was dismissed by this Court, vide order
dated 27.10.2021, in Crl.O.P.(MD)No.14451 of 2021, considering the
huge quantity of tobacco products and also considering the fact that
the said tobacco products have been handed over to the petitioner/A2
for sale.



4. The learned counsel appearing for the petitioner submits that the petitioner is an innocent and he has been implicated in this case through the confession statement of the co-accused and no recovery was made from this petitioner. Hence, he prayed for grant of anticipatory bail to the petitioner. However, to show his *bona fide*, he is prepared to pay a sum of Rs.1,35,000/- to the Chief Minister's Public Relief Fund and file an undertaking affidavit that he will not indulge in any other offence in future before the trial Court as well as before the respondent Police.

5. The learned Government Advocate (Crl. Side) submits that the investigation is yet to be completed.

6. Considering the fact that the petitioner has been implicated only through the confession statement of the co-accused and his willingness to pay a sum of Rs.1,35,000/- to the Chief Minister's Relief Fund and to file an undertaking affidavit that he will not indulge in any other offence in future, 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.1,35,000/- (Rupees One Lakh Thirty Five Thousand only) to the credit of Government of Tamil Nadu, CMPRF in IOB, Secretariat Branch, Chennai-9 (Account No.11720 10000 00070, IFSC Code: IOBA0001172), without prejudice to his rights and contentions before the trial Court and produce the receipt/acknowledgment before the learned Judicial Magistrate, Srivaigundam, Tuticorin District.

7. On production of such receipt/acknowledgement, 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, Srivaigundam, Tuticorin 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:

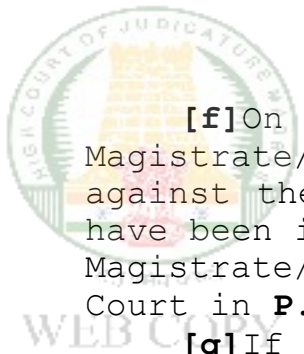
[a] the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity.

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

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

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

[e] the petitioner shall not abscond either during 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/-

24/11/2021

/ TRUE COPY /

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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,
SRIVAIGUNDAM.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.
- 3 THE INSPECTOR OF POLICE
KURUMBUR POLICE STATION, TUTICORIN DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE OFFICER INCHARGE,
GOVERNMENT OF TAMIL NADU,
CHIEF MINISTER PUBLIC RELIEF FUND,
SECRETARIAT, CHENNAI 09.

+1. CC to M/S.BANUPRASATH P Advocate SR.No.8426

ORDER

IN

CRL OP(MD) No.18235 of 2021

Date : 24/11/2021

OGY

SS/VR/SAR-II/29.11.2021 : 3P/7C