



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 30/11/2021

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . Nos.18109 & 18785 of 2021

Selvakumar ... Petitioner/Sole Accused
(in Crl OP(MD)No.18109/2021)

Selvakumar ... Petitioner/Accused No.3
(in Crl OP(MD)No.18785/2021)

Vs

State rep.by
The Inspector of Police,
Kulasekarapattinam Police Station,
Thoothukudi District.
(Crime No.38/2021) ... Respondent/Complainant
(in Crl OP(MD)No.18109/2021)

State rep.by
The Inspector of Police,
Kulasekarapattinam Police Station,
Thoothukudi District.
(Crime No.245/2020) ... Respondent/Complainant
(in Crl OP(MD)No.18785/2021)

For Petitioner : M/s.Muniyandi.S, Advocate.
(in both Petitions)

For Respondent : M/s.RMS.Sethuraman,
Additional Public Prosecutor
(in both Petitions)

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

COMMON PRAYER :-

For Anticipatory Bail in Crime No.38 of 2021 and Crime No.245
of 2020 on the file of the Respondent Police.



ORDER : The Court made the following common order :-

The petitioner/Accused, in (Crl.OP(MD)No.18109/2021) who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 328 IPC r/w Section 6(b), 24(1) of Cigarette and other TOBACCO Products Act, 2003, in Crime No.38 of 2021, on the file of the respondent police, seeks anticipatory bail.

2.The petitioner/Accused, in (Crl.OP(MD)No.18785/2021) who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 328 IPC and Section 6(a), 24(1) of Cigarette and other TOBACCO Products Act, 2003, in Crime No.245 of 2020, on the file of the respondent police, seeks anticipatory bail.

3.The case of the prosecution is that the petitioner and the other accused were found in illegal possession of Tobacco products. Hence, the present complaint.

4. The learned counsel for the petitioner would submit that the petitioner is innocent and a false case has been foisted against the petitioner for statistical purpose. The prohibited products were not seized from him. Hence, he seeks anticipatory bail to the petitioner.

5.The learned Additional Public Prosecutor would submit that the petitioner is the main accused in this case, that the investigation is not yet completed and that he is having one previous for similar offence.

6.It is not in dispute that this Court vide order dated 22.12.2020 in Crl.OP(MD)No.15458 of 2020 has granted anticipatory bail and imposed certain conditions, directing the petitioner to make a non refundable deposit of Rs.1,50,000/- to the credit of Arignar Anna Cancer Institute, Kanchipuram, without prejudice to his rights and contentions before the trial Court. Thereafter, at the instance of the petitioner, Crl.MP(MD)No.2117 of 2021, dated 29.03.2021, one week time was granted to the petitioner to comply with the order passed in Crl.OP(MD)No.15458 of 2020. Since the petitioner has not complied with the order, dated 29.03.2021, this Court dismissed the petition and directed the respondent police to proceed further in accordance with law.

7.It is further case of the prosecution that subsequently another case in Crime No.38 of 2021 came to be registered for similar offence.

8.The learned counsel for the petitioner would submit that due to Covid-19 pandemic, he could not mobilize the funds at that time and that he is ready to deposit the amount already ordered by this Court.

9. Considering the facts and circumstances of the case and also the fact that the petitioner has already grant anticipatory bail by this Court, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

10. Accordingly, the petitioner shall make a non refundable deposit of Rs.1,50,000/- (Rupees one lakh fifty thousand only) to the credit of Arignar Anna Cancer Institute, Kanchipuram, without prejudice to his rights and contentions before the trial Court and on such deposit, 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, Tiruchendur, 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 respondent Police or to the Police Officer, who intends to arrest or 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 Magistrate 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 a.m. for a period of one month and thereafter, as and when required for interrogation.

(c) the petitioner shall not tamper with the evidence or witness either during investigation or trial;

(d) the petitioner shall not abscond either during investigation or trial;

(e) 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]**; and;

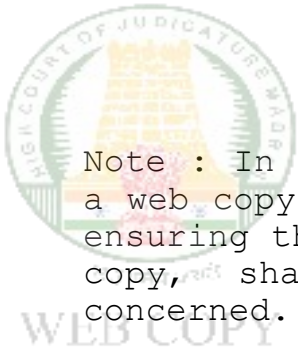
(f) if the accused/ petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

Sd/-
30/11/2021

/ TRUE COPY /

/ /2021

Sub-Assistant Registrar (C.S.IV)
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,
TIRUCHENDUR.
2. -DO-THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
TUTICORIN DISTRICT.
3. THE INSPECTOR OF POLICE,
KULASEKARAPATTINAM POLICE STATION,
THOOTHUKUDI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:

THE ARIGNAR ANNA CANCER INSTITUTE,
KANCHIPURAM.

ORDER
IN
CRL OP(MD) . Nos.18109 &
18785 of 2021
Date :30/11/2021

SP/JC/SAR IV/07/12/2021/4P/6C