



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Sixteenth day of February Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice R. PONGIAPPAN

CRIMINAL ORIGINAL PETITION No.3121 of 2022

NATHARSHA @ M.MOHIDEEN NATHARSHA

[PETITIONER / ACCUSED]

Vs

STATE REP BY
THE INSPECTOR OF POLICE,
RAMANATHAM POLICE STATION,
CUDDALORE DISTRICT.
CR.NO.114 OF 2022.

[RESPONDENT]

For Petitioner : MR.B.KUMARASAMY, Advocate for
M/S. T.SATHYASEELAN Advocate

For Respondent : MR.S.SANTHOSH, Govt. Advocate (CrI. Side)

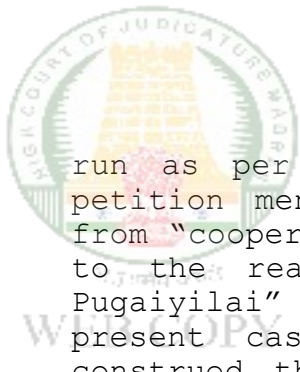
PETITION FOR ANTICIPATORY BAIL 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest for the alleged offences under Sections **6(b) and 24(1) of Cigarettes and Other Tobacco Products Act (COTPA) Act r/w Section 328 of IPC** in Crime No.114 of 2022, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that "Aasai Tobacco Company" has been operating on the way to Thiruvalandurai village from Keelakalpoondi village. It is learned that on 03.02.2022 around 8 p.m, the Food Safety Officers, Cuddalore, seized about 21 tonnes of tobacco products which were banned by the Tamil Nadu Government and were being manufactured for sale. Also this company is located within 100 meters from the school. Hence the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has not committed any such offences as alleged by the prosecution. He would further submit that the petitioner is a sole proprietor of "Aasai Super Tobacco" which is a proprietorship firm, legally registered and being



run as per legal norms. It is his specific submission that the petition mentioned tobaccos have been purchased by the petitioner from "cooperative" as well as "Erode Marketing Committee". Later, due to the reason that the Company which is called "Aasai Super Pugaiyilai" is situated within hundred meters from the school, the present case has been registered. In otherwise, it cannot be construed that the petitioner and other accused in this case are unlawfully possessed with banned tobacco materials. Hence, he prays to grant anticipatory bail to the petitioner.

4. The learned Government Advocate (Criminal Side) appearing for the respondent police by filing counter raised objection stating that investigation is pending. In otherwise, he did not dispute the validity of the documents for example, "Moola anumadhi seetu" issued by the Erode Marketing Committee which have been filed by the petitioner for showing that the tobacco products are legally purchased in the auction conducted by the Government Organization.

5. Submissions made by the learned Counsel on either side are considered.

6. The respondent police registered a case against the petitioner for the offences punishable under Sections 6(b) and 24(1) of Cigarette and Other Tobacco Products Act, 2003 r/w Section 328 of I.P.C. In respect to Section 6(b) and 24(1) of the said Act, the said offence is punishable with fine of Rs.200/-. As regards, Section 328 of I.P.C. is concerned, it is for the prosecution to show that the petitioner is possessed with poison and attempted to administer the same to any other person. Herein the history of the case projected by the prosecution shows the petitioner has purchased tobacco product from Erode Marketing Committee and tried to convey the same as usable one. Further the same has been done by the petitioner's company with the authorisation of the Government.

7. Taking note of all the above said aspects into consideration and having regard to the nature of the offence committed by the petitioner, this Court came to the conclusion that for the completion of investigation, custodial interrogation of the petitioner may not be necessary in this case. Hence, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8. Accordingly, 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, Tittagudi**, 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 the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:



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(a) the petitioner and the sureties shall affix his photographs and left thumb impression in the surety bond and the Court concerned 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 10.30 a.m., for a period of thirty (30) days and thereafter, as and when required for investigation.

(c) the petitioner shall not tamper with 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 thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-

16/02/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
TITTAGUDI, CUDDALORE DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.



4 THE INSPECTOR OF POLICE,
RAMANATHAM POLICE STATION,
CUDDALORE DISTRICT.

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+1 CC to M/S. T.SATHYASEELAN Advocate on payment of necessary
charges SR.NO.2437

CRL OP.3121/2022

Date :16/02/2022

TA-18/02/2022