



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 15/02/2022
PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.1294 of 2022

1. Nagoorkani
2. Ramzanbegam
3. Ibrahim

... Petitioners/Accused 1-3

Vs

The State rep.by
The Inspector of Police,
Cumbum North Police Station,
Theni District
(Crime No. 773 of 2021).

... Respondent/Complainant

M.V.Samy

... Petitioner/Defacto Complainant
In Cr1.MP(MD).1504/2022 in
Cr1.OP(MD).1294/2022

For Petitioners: Mr.K.APPADURAI,
Advocate.

For Respondent : Mr.M.MUTHUMANIKKAM,
Government Advocate (Cr1.Side)

For Intervener : Mr.R.SHANKAR GANESH,
Advocate

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

PRAYER :- For Anticipatory Bail in Crime No. 773 of 2021 on the file of the respondent Police.

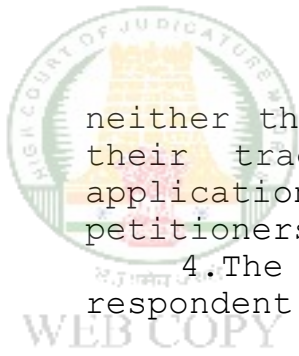
ORDER : The Court made the following order :-

The petitioners/Accused, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 420, 482, 483, 486 IPC, in Crime No.773 of 2021, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant one M.V.Samy, claiming to be a Theni District Salesman of RS Gold Beedi Company, lodged a complainant stating that the accused persons manufactured fake RS Gold Beedi as No.1 RS Gold Beedi with fake labels. On inspection, No.1 RS Gold Beedi and No.1 RS Gold Fire Match, worth Rs.40,185/- were recovered and seized from the petitioners.

3.The learned counsel for the petitioners would submit that

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neither the petitioners nor the *defacto* complainant has registered their trade mark and though the *defacto* complainant filed application for registration, the same was objected by the petitioners and is pending before the Authorities concerned.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the investigation is not yet completed.

5.It is not in dispute that the *defacto* complainant is having business in the name and style of RS Gold Beedi Company. According to the petitioners, they are doing business in the name and style of No.1 RS Gold Beedi. It is not in dispute that the *defacto* complainant filed a suit in OS No.183 of 2021, claiming permanent injunction, restraining the petitioners and their servants, agents and distributors from committing "Passing off" their products, using the trade mark No.1 RS Gold Beedi, which is deceptively similar to the trade name of the *defacto* complainant and also for mandatory injunction, directing the petitioners to surrender all the unsold goods and banner, labels, printed matters etc, with the deceptively similar mark "No.1 RS Gold Beedi" along with sign board, labels together with the blocks or dyes used for printing the same for destruction.

6.Considering the above facts and circumstances of the case and also the facts that the *defacto* complainant himself filed the suit and that there existed trademark dispute between the parties, this court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Uthamapalayam, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each 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 petitioners shall deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only) each to the credit of the Crime No.773 of 2021, before the Trial Court, within a period of two weeks from the date of receipt of the order copy;

b) the petitioners and 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;

c)the petitioners shall report before the respondent police daily at 10.30 am for a period of one month and thereafter, as and when required for interrogation;

d)the petitioners shall not tamper with evidence or witness



either during investigation or trial;

e) the petitioners 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]***; and;

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

sd/-

15/02/2022

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/ /2022

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
UTHAMAPALAYAM.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.

3 THE INSPECTOR OF POLICE,
CUMBUM NORTH POLICE STATION,
THENI DISTRICT

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.R.SHANKAR GANESH, Advocate SR.No.1265

+1. CC to M/S.K.APPADURAI, Advocate SR.No.6348 (F)

ORDER IN

CRL OP(MD) No.1294 of 2022

Date :15/02/2022

SA/VR/SAR.1/02.03.2022/3P/6C

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