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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 28/02/2022

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.3585 of 2022

Nagoorkani

... Petitioner/Sole Accused

Vs

State rep.by
The Inspector of Police,
Cumbum South Police Station,
Theni District
(Crime No.630 of 2021).

... Respondent/Complainant

For Petitioner : M/s.C.Christopher, Advocate.

For Respondent : M/s.M.Muthumanikkam,
Government Advocate (Crl.Side)

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

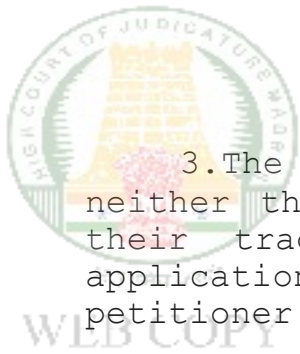
PRAYER :-

For Anticipatory Bail in Crime No.630 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/accused, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 420, 482, 483 and 486 IPC, in Crime No.630 of 2021, seeks 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 petitioner.



3.The learned counsel for the petitioner would submit that neither the petitioner nor the *defacto* complainant has registered their trade mark and though the *defacto* complainant filed application for registration, the same was objected by the petitioner and is pending before the Authorities concerned.

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

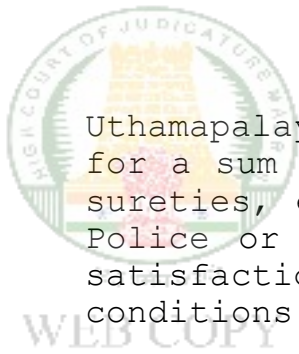
5.The learned counsel for the petitioner would further submit that in similar matter, this Court has granted anticipatory bail, in CrI.O.P.(MD)No.1294 of 2022 dated 15.02.2022, for three accused concerned in Crime No.773 of 2021 on the file of the Cumbum North Police Station, Theni District, including the petitioner herein and that this Court has imposed condition directing the three accused therein, to deposit a sum of Rs.50,000/- each.

6.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 petitioner, he is 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 O.S.No.183 of 2021, claiming permanent injunction, restraining the petitioner and his 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 petitioner 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.

7.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 petitioner with certain conditions.

8.Accordingly, the petitioner shall pay a sum of **Rs.10,000/- (Rupees Ten 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, Uththamapalayam.

9.On production of such receipt/acknowledgment, the petitioner is ordered to be released on bail in the event of arrest or his 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 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 Magistrate 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 interrogation;

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/-

28/02/2022

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Sub-Assistant Registrar (C.S.II)
Madurai Bench of Madras High Court,
Madurai - 625 023.

CSM

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 SOUTH POLICE STATION,
THENI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:

THE OFFICER INCHARGE,
CHIEF MINISTER PUBLIC RELIEF FUND,
SECRETARIAT, CHENNAI-9.

+1. CC to M/S.APPADURAI K Advocate SR.No.9296

ORDER
IN
CRL OP (MD) No.3585 of 2022
Date :28/02/2022

SP/VR/SAR II/03/03/2022/4P/7C