



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 15/03/2022

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.4861 of 2022

Mohamed Shafeeq

... Petitioner/Accused No.2

Vs

State Rep.by
The Inspector of Police,
Manavalakurichi,
Kanniyakumari District.
(Crime No.18/2022).

... Respondent/Complainant

For Petitioner : M/s.Balamurugapandi.D,
Advocate.

For Respondent : Mr.R.Sivakumar,
Government Advocate (Crl.Side)

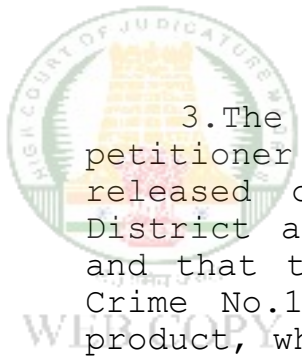
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :- For Anticipatory Bail in Crime No.18 of 2022 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/accused No.2, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 272, 273 and 328 of IPC and Section 59 of Foods Safety and Standard Act, 2006 in Cr.No.18 of 2022, seeks anticipatory bail.

2.The case of the prosecution is that based on the secret information given by the informant, on 14.02.2022, the respondent police made a search in DJ Mart Amazon Courier Office in little gold building situated at Ammandivillai and found 8 boxes of (701-Ganesh) Tobacco Product, each 12 gram sachet, totally weighing about 120 kgs, which are prohibited by the Tamil Nadu Government. On enquiring about the same from one Babithaar, who runs the said office, stated that those boxes are belonging to the petitioner, Davidjaiswal and Beerkhan. On further enquiry, the said Davidjaiswal has supplied the above said prohibited product to the petitioner and Beerkhan and already a case in Crime No.50 of 2022 has been registered against the petitioner and Beerkhan by the Colachel Police Station. In these circumstances, the respondent police registered a case in Crime No.18 of 2022 against the petitioner.



3.The learned counsel for the petitioner would submit that the petitioner was arrested in connection with Crime No.50 of 2022 and released on bail by the Principal Sessions Judge, Kanyakumari District at Nagercoil in Crl.M.P.No.840 of 2022, dated 21.02.2022 and that the respondent police has registered the present case in Crime No.18 of 2022 alleging that they have seized some tobacco product, which were received through courier.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the respondent police has recovered the product weighing 54.360 kgs in Crime No.50 of 2022 and the same is entirely different from the property recovered in the present case.

5.Considering the above facts and circumstances and also the facts that the property has been recovered and that except the other case in Crime No.50 of 2022, the petitioner is not having any previous case for similar offence, this Court is inclined to grant anticipatory bail to the petitioner, but with certain conditions.

6.Accordingly, the petitioner shall pay a sum of Rs.10,000/- (Rupees Ten Thousand only) to the Madurai Bench of Madras High Court Advocates Welfare Fund [Indian Bank High Court Branch, Madurai, Current Account No.7087208431, IFSC IDIBI000H040] without prejudice to his rights and contentions before the trial Court and produce the receipt/acknowledgment before the learned Judicial Magistrate, Eraniel, Kanniyakumari District.

7.On production of such receipt/acknowledgment, the petitioner is ordered to be released on bail in the event of his 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, Eraniel, Kanniyakumari 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 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 evening at 05.30 pm for a period of one month 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/-

15/03/2022

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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,
ERANIEL, KANNIYAKUMARI DISTRICT.
- 2 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANNIYAKUMARI DISTRICT AT NAGERCOIL.
- 3 THE INSPECTOR OF POLICE,
MANAVALAKURICHI, KANNIYAKUMARI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE OFFICER INCHARGE,
MADURAI BENCH OF MADRAS HIGH COURT
ADVOCATES WELFARE FUND, MADURAI.

+1 CC to M/s.D.BALAMURUGAPANDI, Advocate (SR-2060[I] dated 15/03/2022)

ORDER IN

CRL OP(MD) No.4861 of 2022

Date :15/03/2022

SJI

MS/PN/SAR-2/21.03.2022/3P.7C

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