



WEB COPY



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)
Reserved on : 13/09/2022
Delivered on : 19/09/2022

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL OP(MD) . No.12977 of 2022

S.Maharajan

... Petitioner/Accused No.2

Vs

State rep.by
The Inspector of Police,
SIPCOT Police Station,
Thoothukudi District
(Crime No.207 of 2022).

... Respondent/Complainant

For Petitioner : M/s.Anand.R, Advocate.

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

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

PRAYER :-

For Anticipatory Bail in Crime No.207 of 2022 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused, who apprehend arrest at the hands of the respondent police for the offence punishable under Sections 7(1) and 24(1) of Cigarette and Other Tobacco Products Act,2003 and Section 328 I.P.C, in Crime No. 207 of 2022, seeks anticipatory bail.

2. The case of the prosecution is that on 19.06.2022, at about 01.00 pm., the police party found out a man purchasing Tabacoo products and the owner of the Bunk shop - Thirumalai gave a statement that the banned tobacco products were supplied to him by the petitioner. A case in Crime No.207 of 2022, was registered against the petitioner.



3. On the side of the petitioner, it is stated that there was a motive between the police personal and the petitioner and they were filing series of cases against the petitioner. The petitioner is doing scrap business. Anticipating the plan of the respondent, the petitioner filed a petition in Cr.M.P.No.12632 of 2022, not to harass the petitioner. Even then, this case came to be registered and prayed the petitioner to be released on anticipatory bail.

4. On the side of the petitioner, it is further stated that there was some dispute between the petitioner and the S.I. Of police. Every year SIPCOT police used to register 5 cases against the petitioner, which are all similar in nature. There was no recovery from the petitioner. The petitioner was detained under Act - 14 and the proceeding was quashed by the order of this Court. Except section 328 I.P.C all other sections are bailable. Section 328 I.P.C is not made out. Only with a previous motive, all the previous cases are foisted against the petitioner and only on that motive, this case was registered against the petitioner. To prove his bonafide, the petitioner is ready to deposit any sum to be fixed by this Court.

5. On the side of the prosecution, it is stated that the petitioner is having 6 previous cases. Most of them are similar in nature. H.S.No.66 / 2020 is maintained against the petitioner. 110 Cr.P.C. proceeding was also taken against the petitioner and prayed the petition to be dismissed.

6. Considering the facts and circumstances of the case and considering the bad antecedents of the petitioner, this Court directs the petitioner to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the credit of Gandhi Museum, Madurai, (IFSC Code: MAHB0001329 and MICR Code: 625014003 for Bank Of Maharashtra, Located at Collectorate Office, Gandhi Museum Road, Madurai - 625020) as a donation without prejudice to his rights and contentions before the trial Court.

7. On such deposit being made, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, before the learned Judicial Magistrate No.I, Thoothukudi, within a period of fifteen days from the date of receipt of a copy of this order, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten 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 am for a period of one month and thereafter, as and when required;

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

(d) the petitioner shall be present before the Court on hearing dates and before the respondent police as and when required;

(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.

8. This petition is allowed.

Sd/-
19/09/2022

/ TRUE COPY /

/09/2022
Sub-Assistant Registrar (C.S.I)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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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 NO.I,
THOOTHUKUDI.
2. -DO- THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.



3. THE INSPECTOR OF POLICE,
SIPCOT POLICE STATION,
THOOTHUKUDI DISTRICT.

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

+ 1 CC TO Mr.R.ANAND , ADVOCATE IN SR No.10306

COPY TO:

THE GANDHI MUSEUM, MADURAI.

ORDER
IN
CRL OP(MD) No.12977 of 2022
Date :19/09/2022

SP/SVR/SAR I/21/09/2022/4P/7C