



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 07/09/2022

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL OP(MD). No.16162 of 2022

WEB COPY

Mohammed Ibrahim

... Petitioner/Accused No.1

Vs

State Rep.by
The Inspector of Police,
Thenkarai, Theni District.
(Crime No.337/2022).

... Respondent/Complainant

For Petitioner : M/s.Fazil Kirmani B, Advocate.
For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-

For Bail in Crime No.337/2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A1, who was arrested and remanded to judicial custody on 21.08.2022 for the offence punishable under Section 328 IPC and Sections 273 and 328 IPC r/w Sections 7(2) and 20(2) of Cigarette and other Tobacco Products Act, 2003, in Crime No.337 of 2022, on the file of the respondent police, seeks bail.

2.The allegation against the petitioner is that the petitioner and other accused were found in illegal possession of banned tobacco and gutka packets worth about Rs.48,180/-. Hence, the complaint.

3.On the side of the petitioner, it is stated that a false case was foisted against the petitioner and the petitioner is in judicial custody from 21.08.2022 and prayed the petitioner to be released on bail.

4.On the side of the prosecution, it is stated that totally there are three accused in this case and the petitioner is A1. It is fairly admitted that the petitioner is having no previous case.

5.It is seen that the petitioner has filed a bail petition before the Principal Sessions Judge, Theni in Crl.M.P.No.3265 of 2022 and the same was dismissed on 02.09.2022.



6.Considering the period of incarceration and on considering the quantity of the contraband, this Court is inclined to grant bail to the petitioner with certain conditions

7.Accordingly, this Criminal Original Petition is allowed on condition that the petitioner shall deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) to the credit of Crime No.337 of 2022 before the learned Judicial Magistrate, Periyakulam, Theni District, without prejudice to her rights and contentions before the trial Court and produce the receipt/acknowledgment before the trial Court.

8.On such deposit being made, the petitioner is ordered to be released on bail, on executing a bond for a sum of 10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Periyakulam, Theni District and on further conditions that:

(i)the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

(ii)the petitioner shall report before the respondent police daily at 10.30 a.m., for a period of one month and thereafter, as and when required for interrogation;

(iii)the petitioner shall not tamper with evidence or witness;

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

(v)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]**.

(vi)If the accused / petitioner thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

07/09/2022

/ TRUE COPY /

07/09/2022

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, PERIYAKULAM, THENI DISTRICT.

2 DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE, THENI DISTRICT.

3 THE OFFICER INCHARGE, SUB JAIL, PERIYAKULAM.

4 THE INSPECTOR OF POLICE, THENKARAI, THENI DISTRICT.

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

+1 CC to M/s.B.FAZIL KIRMANI, Advocate (SR-9752[I] dated 07/09/2022)

ORDER

IN

CRL OP(MD) No.16162 of 2022

Date :07/09/2022

SJI

RS/VR/SAR.1 (07.09.2022) 3P-7C