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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 29/09/2022

PRESENT

The Hon'ble Mr.Justice G.ILANGO VAN

Crl.OP(MD)Nos.16642 and 16643 of 2022

Backiyaraj

... Petitioner/Accused No.2
(in both Petitions)

Vs.

State rep. By
The Inspector of Police,
Mayanoor Police Station,
Karur District.

(In Crime No.250 of 2022)
(In Crime No.233 of 2022)

... Respondent/Complainant
(in both Petitions)
(in Crl.O.P.(MD)No.16642/2022)
(in Crl.O.P.(MD)No.16643/2022)

For Petitioner : Mr.M.Subash Babu, Advocate

For Respondent : Mr.RMS.Sethuraman
Additional Public Prosecutor

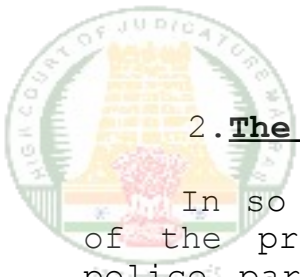
PETITION FOR ANTICIPATORY BAIL under Sec.438 of Cr.P.C

PRAYER:-

For Anticipatory Bail in Crime No.250 and 233 of 2022 on the file of the Respondent Police.

COMMON ORDER:- The Court made the following order:-

The petitioner in Crl.OP(MD)No.16642 of 2022, who is arrayed as A2 apprehending arrest at the hands of the respondent police for the alleged offences under section 328 IPC and section 24(1) of Cigarette and Other Tobacco Products Act, 2003, in Crime No.250 of 2022 seeks anticipatory bail, whereas the petitioner in Crl.OP(MD) No.16643 of 2022, who is arrayed as A2 apprehending arrest at the hands of the respondent police for the alleged offences under sections 273, 328 IPC and section 24(1) of Cigarette and other Tobacco Products Act, 2003, in Crime No.233 of 2022 on the file of the respondent seeks anticipatory bail.



2. The case of the prosecution in brief:-

In so far as CrI.OP(MD)No.16642 of 2022 is concerned, the case of the prosecution is that the de-facto complainant along with police party were on routine check up with regard to the banned tobacco products. On 05/08/2022, they found A1 in possession of the above said banned tobacco products. So, he was enquired and he has stated that only this petitioner, who is arrayed as A2 supplied the above said tobacco products for the purpose of sale. He further revealed that the petitioner used to purchase the same from Karnataka and supply to various persons in Tamil Nadu. On the basis of the above said occurrence, the case was registered.

3. Seeking anticipatory bail, this petition came to be filed.

4. So far as CrI.OP(MD)No.16643 of 2022 is concerned, Crime No.233 of 2022 on the file of the respondent police. The case of the prosecution, as per the complaint is that the de-facto complainant is the Police Officer, attached to the respondent police and on secrete information, they were on look out for suspect persons and on 22/07/2022, they found some suspicious packages near A1's house. On search, they found containing 323 packets of banned tobacco, other tobacco products and panmasala. On enquiry, A1 stated that only A2 supplied the above said banned articles to him for the purpose of sale. On the basis of the statement, he was arrested and remanded to the judicial custody. On the basis of the confession statement of A1, the involvement of the petitioner came to light and he is arrayed as A2. It was found that totally 169.600 kgs of tobacco products were found.

5. Seeking anticipatory bail, this petition came to be filed.

6. Heard both sides.

7. These are the second anticipatory bail applications came to be filed by the petitioner respectively. The earlier applications filed by the petitioner came to be dismissed, considering the fact that the petitioner is involved in two successive cases of similar in nature. Now these second applications came to be filed stating that the petitioner is running a transport business and is not involved in the above said transportation of tobacco products.

8. The Investigating Officer was present before this Court on the earlier occasion and stated that the petitioner is involved not only in the Prohibition Act case, but also the offence of 304-B IPC. He used to transport the tobacco products from Bangalore to Tamil Nadu and kept in his godown and sent it to sell in retail market.

9. The learned Additional Public Prosecutor would submit that the petitioner is continuously engaged in such sort of illegal trading. But the learned counsel for the petitioner would submit



that the petitioner is only running transport business and he is also ready to file undertaking affidavit to the effect that he do not indulge in such activity in future and accordingly, the affidavit of undertaking has also been filed.

10. When such a serious allegation has been made and the petitioner is stated to be involved in the transport of the banned tobacco products on the previous occasion also, unless a strong case has been made by him, he is not entitled for anticipatory bail.

11. Even though, the petitioner has filed an undertaking affidavit, considering the habitual nature of the the offence, he is not entitled for the discretionary relief of anticipatory bail. The information with regard to the godown where the above said tobacco products have been stored must also be investigated and to know the mode of transport of the tobacco products, he must be subjected to custodial interrogation, otherwise the truth will not come out.

12. In the result, both criminal original petitions are **dismissed**.

Sd/-
29/09/2022

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/10/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

1. THE INSPECTOR OF POLICE,
MAYANOR POLICE STATION,
KARUR DISTRICT.
2. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
Crl.OP (MD) Nos.16642
and 16643 of 2022
Date :29/09/2022

SP/GB/SAR /28/10/2022/3P/3C