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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)
Reserved on : 15/09/2022
Delivered on: 19/09/2022

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL OP(MD) . No.16584 of 2022

Ganesan

... Petitioner/1st Accused

Vs

State rep.by
The Inspector of Police,
Palanichettipatti Police Station,
Theni District
(Crime No.329 of 2022).

... Respondent/Complainant

For Petitioner : M/s.Muniyandi S, 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.329 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 272, 273, 328 I.P.C and Sections 24(1), 6(b) of Cigarette and Other Tobacco Products Act,2003, in Crime No. 329 of 2022, seeks anticipatory bail.

2. The case of the prosecution is that on 08.09.2022, at about 08.00 am., when the police party conducted a routine inspection, they found the accused having 5 bags of Tobacco products, worth Rs.1,00,000/-. A case in Crime No.329 of 2022, was registered against the petitioner.



3. On the side of the petitioner, it is stated that the petitioner was not at all present at the time of occurrence. On the confession of co-accused/A2, the petitioner was falsely implicated in this case. The allegation is that the co-accused-Manojkumar and Praveen were transporting the prohibited Tobacco products in a Car. Except the confession, there is no materials to implicate the petitioner and prayed the petitioner to be released on anticipatory bail.

4. On the side of the petitioner, it is further stated that the prohibited articles were recovered from the co-accused on 08.09.2022 and the same has not been produced before the concern Court. There is no recovery from 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 totally there are 6 accused in the case. The petitioner is arrayed as A1. Totally 173 Kgs of Tobacco products was recovered. The petitioner is the whole seller. It is further stated the there is no previous case against the petitioner and prayed the petition to be dismissed.

6. Considering the facts and circumstances of the case and considering the nature of the offence, considering the quantity of the contraband, this Court directs the petitioner to deposit a sum of Rs.15,000/- (Rupees Fifteen 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 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, Theni, 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.II)
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,
THENI.
2. -DO- THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.



3. THE INSPECTOR OF POLICE,
PALANICHETTIPATTI POLICE STATION,
THENI DISTRICT.

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

COPY TO:

THE GANDHI MESEUM, MADURAI.

ORDER
IN
CRL OP(MD) No.16584 of 2022
Date :19/09/2022

SP/SVR/SAR II/21/09/2022/4P/6C