



WEB COPY



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

Date : 29/09/2022

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL OP(MD) . No.17292 of 2022

Sivakumar

... Petitioner/Accused No.4

Vs

State rep.by
The Inspector of Police,
Sethubavachathiram Police Station,
Thanjavur District.
(Crime No.367/2022).

... Respondent/Complainant

For Petitioner : M/s.Deenadhayalan S, Advocate.

For Respondent : Mr.Vaikkam Karunanithi,
Government Advocate (Crl.Side)

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

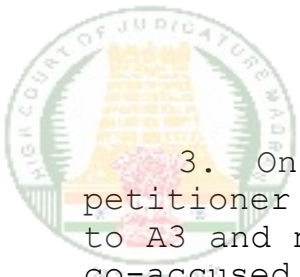
PRAYER :-

For Anticipatory Bail in Crime No.367 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner apprehending arrest at the hands of the respondent police for the offences punishable under Sections 273, 328 I.P.C r/w. Section 7(1) and 24(1) of Cigarette and other Tobacco Products Act, 2003, in Crime No. 367 of 2022 on the file of the respondent police, seeks anticipatory bail.

2. The allegation against the petitioner is that on 28.07.2022, at about 4.00 pm., A1 to A3 were found in possession of 72 Kgs of Tobacco Products purchased from the petitioner -A4. A case in Crime No.367 of 2022, was registered against the petitioner and others.



3. On the side of the petitioner, it is stated that the petitioner is only A4 in the case. The products were seized from A1 to A3 and not from the petitioner-A4. Only on the confession of the co-accused, the petitioner was falsely implicated in the case. Only on suspicion, the petitioner -A4 was implicated in the case. The petitioner is only running a petty shop, he is not involved in any offence and the previous case against the petitioner was already closed and prayed the petitioner to be released on anticipatory bail.

4. On the side of the prosecution, it is stated that A1 to A3 were found in possession of Tobacco products and on confession of co-accused, it came to light that A1 to A3 purchased the products from the petitioner -A4. The petitioner is having one previous case similar in nature. Earlier Petition filed by the petitioner in CrI.O.P.(MD)No.14568 of 2022 was dismissed by this Court, on 06.09.2022, this is the second bail application and prayed the petition to be dismissed.

5. Considering the nature of offence and considering the fact though the earlier petition was dismissed on 06.09.2022, the respondent police has not taken any steps to arrest the petitioner, this Court is inclined to release the petitioner on anticipatory bail and 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 a donation without prejudice to his rights and contentions before the trial Court.

6. 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, Pattukkottai, Thanjavur District, 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 until further orders;

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

<https://www.mhc.tn.gov.in/judis>

(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.

7. This petition is allowed.

Sd/-
29/09/2022

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/10/2022

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,
PATTUKKOTTAI, THANJAVUR DISTRICT.
2. -DO- THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.
3. THE INSPECTOR OF POLICE,
SETHUBAVACHATHIRAM POLICE STATION,
THANJAVUR DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE OFFICER INCHARGE, GANDHI MUSEUM, MADURAI.

+1. CC to M/S.DEENADHAYALAN S Advocate SR.No.10861

ORDER
IN
CRL OP (MD) No.17292 of 2022
Date : 29/09/2022