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CRL OP(MD). N



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

Dated : 14.10.2022

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL OP(MD). No.18312 of 2022

A.Boopathi ... Petitioner/Petitioner/Sole Accused
Vs

The State represented by
The Inspector of Police,
Mamsapuram Police Station,
Virudhunagar District.
Crime No.113 of 2022..

... Respondent/Respondent/Complainant

For Petitioner : M/s.Balasubramanian N,
Advocate.
For Respondent : Mr.M.Vaikkam Karunanithi,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.113 of 2022 on the file of
the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Sole Accused, who apprehends arrest at the hands
of the respondent police for the offences punishable under Sections
6(b) r/w. 24(1) of Cigarette and Other Tobacco Products Act, 2003
and Section 328 IPC in Cr.No.113 of 2022, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner was found
in illegal possession of 7 pocket of Ganesh Tobacco pockets worth
about s.350/-, which is prohibited by the Government. Hence, the
complaint.



3. On the side of the petitioner, it is stated the petitioner is innocent and he is no way connected with the alleged offence and prayed the petitioner to be released on anticipatory bail.

4. On the side of the prosecution, it is stated that the petitioner is having one previous case, which is similar in nature and prayed the petition to be dismissed.

5. Considering the nature of offence and considering the fact though the earlier petition was dismissed on 12.09.2022, 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 Memorial Museum, Madurai, (IFSC Code: IDIB000T0003, MICR Code: 625019008, Indian Bank, Tallakulam Branch, Madurai, Account No.6479518195) 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 No.II, Srivilliputhur, 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;

(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 FIF registered under Section 229-A IPC.

7. This petition is allowed.

sd/-
14/10/2022

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/10/2022

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

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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 MAGISTRTE NO.II,
SRIVILLIPUTHUR.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
- 3 THE INSPECTOR OF POLICE
MAMSAPURAM POLICE STATION, VIRUDHUNAGAR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

Copy to:

THE OFFICER INCHARGE,
GANDHI MEMORIAL MUSEUM, TALLAKULAM, MADURAI.

+1. CC to M/S.BALASUBRAMANIAN N Advocate SR.No.11611

ORDER
IN
CRL OP(MD) No.18312 of 2022
Date :14/10/2022

SS/BUC/SAR-II (26/10/2022) 3P/7C