



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

Date : 28/10/2022

PRESENT

WEB COPY

The Hon`ble Mr.Justice A.A.NAKKIRAN

CRL OP(MD). No.19148 of 2022

Muthukumar

... Petitioner/Accused No.1

Vs

The State Rep. By,
The Inspector of Police,
Kalakad Police Station,
Tirunelveli District.
Crime No.233/2022.

... Respondent/Complainant

For Petitioner : M/s.Haja Mohideen A,
Advocate.
For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor

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

PRAYER :-

To release the petitioner/accused on bail in Cr.MP.No.10372/2022 on the file of the Principal Sessions Judge, Tirunelveli.

ORDER : The Court made the following order :-

The petitioner/Accused, who was arrested and remanded to judicial custody on 23.09.2022 for the offences punishable under Section 24(1) of COTPA Act and Section 328 of IPC and Section 77 of JJ Act, in Crime No.233 of 2022, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner was found in illegal possession of banned Tobacco 87 packets worth about 3455/- with an intention to sell the same to the children. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is running a petty shop, which is situated in the centre of the village and there is no chances for selling tobacco to the children. He would further submit that the petitioner is an innocent person and he did not commit any offence as alleged by the prosecution. The petitioner is in judicial custody from 23.09.2022. Hence, he may be granted bail.



4. The learned Additional Public Prosecutor appearing for the respondent police strongly opposed for grant of bail to the petitioner on the ground that the petitioner is having six previous cases of similar in nature and the investigation in this case is not yet completed. He would further submit that the properties were recovered.

5. Considering the facts and circumstances of the case and considering the period of incarceration and also the fact that properties were recovered, this Court is inclined to grant bail to the petitioner subject to the following conditions:

6. Accordingly, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail, on executing 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 learned Judicial Magistrate, Nanguneri.

(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., until further orders;

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

(iv) the petitioner shall not abscond during trial;

(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].

sd/-
28/10/2022

/ TRUE COPY /

28/10/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE PRINCIPAL SESSIONS JUDGE,
TIRUNELVELI.

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



2. THE JUDICIAL MAGISTRATE,
NANGUNERI.
3. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
4. THE SUPERINTENDENT,
CENTRAL JAIL, TIRUNELVELI.
5. THE INSPECTOR OF POLICE,
KALAKAD POLICE STATION,
TIRUNELVELI DISTRICT.
6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.A.HAJA MOHIDEEN, Advocate (SR-12079[I] dated
28/10/2022)

ORDER
IN
CRL OP(MD) No.19148 of 2022
Date :28/10/2022

CP
USK/SBN/SAR- /28.10.2022/3P/8C