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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 07/11/2022

PRESENT

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

CRL OP(MD). No.19634 of 2022

K.Tamilselvam

... Petitioner/Accused No.1

Vs

State Rep.by
The Inspector of Police,
Town Police Station,
Thirupathur,
Sivagangai District.
(Crime No.138 of 2022).

... Respondent/Complainant

For Petitioner : M/s.Banumathy A, Advocate.

For Respondent : Mr.M.Muthumanikkam,
Government Advocate (Crl.Side)

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

PRAYER :-

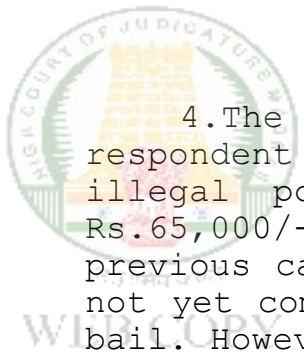
For Anticipatory Bail in Crime No.138 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A1, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 272, 273, 328 of IPC and 24(1) of COTP Act, 2003, in Crime No.138 of 2022, seeks anticipatory bail.

2.The case of the prosecution is that on 15.10.2022, at about 09.30 a.m, the respondent police inspected the petitioner's shop and found in illegal possession of 50 Kg of Tobacco Products worth about Rs.65,000/- for selling to the public. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that co-accused/A2 was released on bail by this Court in Crl.OP(MD)No.19197 of 2022 on 31.10.2022. Hence, he prays for anticipatory bail.



4.The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that the petitioner was found in illegal possession of 50 Kg of Tobacco Products worth about Rs.65,000/- for selling to the public. The petitioner is having 2 previous cases similar in nature. The investigation in this case is not yet completed. Hence, he strongly opposed to grant anticipatory bail. However, the co-accused was released on bail by this Court.

5.Considering the facts and circumstances of the case and also considering the fact that the co-accused was released on bail by this Court, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6.Accordingly, the petitioner shall pay a sum of **Rs.6,500/- (Rupees Six Thousand and Five Hundred only) to the credit of Headmistress, Government High School, Sathyamoorthy Nagar, Madurai (Account No.30641540761, IFSC Code: SBIN0016503, State Bank of India, Samayanallur, Madurai)**, without prejudice to his rights and contentions before the trial Court and produce the receipt/acknowledgement before the learned Principal District Munsif Cum Judicial Magistrate Court, Thiruppathur, Sivagangai District.

7.On production of such receipt, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Principal District Munsif Cum Judicial Magistrate Court, Thiruppathur, Sivagangai District, 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 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 not abscond either during investigation or trial;

(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 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.

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

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 PRINCIPAL DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
THIRUPPATHUR, SIVAGANGAI DISTRICT.
- 2 DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE, SIVAGANGAI DISTRICT.
- 3 THE INSPECTOR OF POLICE, TOWN POLICE STATION, THIRUPATHUR,
SIVAGANGAI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO
THE HEADMISTRESS,
GOVERNMENT HIGH SCHOOL,
SATHYAMOORTHY NAGAR,
MADURAI.

+1 CC to M/s.A.BANUMATHY, Advocate (SR-12554[I] dated 07/11/2022)

ORDER

IN

CRL OP(MD) No.19634 of 2022

Date :07/11/2022

DSS

RS/TR/SAR.3(14.11.2022) 3P-7C