



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 30/11/2022
PRESENT

WEB COPY

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

CRL OP(MD) . No.21184 of 2022

Senthamil Selvan

... Petitioner/Accused No.1

Vs

The State rep.by
The Inspector of Police,
Aralvoimozhi Police Station,
Kanyakumari District.
Crime No.321 of 2022.

... Respondent/Complainant

For Petitioner : M/s.Radhakrishnan G,
Advocate.

For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor

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

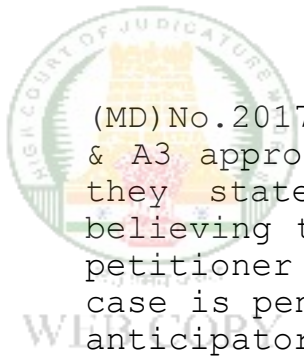
PRAYER :- For Bail in Crime No.321 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused No.1, who was arrested and remanded to judicial custody on 29.10.2022 for the offences punishable under Sections 328 of IPC and Section 6(a) and 24(i) of COTPA Act, in Crime No.321 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 29.10.2022, when the respondent police doing vehicle check up at respondent police jurisdiction, they tried to stop a vehicle bearing Reg.No.TN-19-Q-5182. But the accused persons tried to fled away. After chasing the vehicle, the respondent police found that the accused persons illegally transported 680 Kg of banned Tobacco product worth about Rs.9 lakh. Hence, present case has been registered against the petitioner.

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 this is the second bail application. Earlier application filed by the petitioner in Crl.OP



(MD)No.20174 of 2022 was dismissed by this Court, on 15.11.2022. A2 & A3 approached the petitioner for one day acting driver. Further, they stated that the vehicle contains only milk products. On believing their words, he agreed to come one day acting driver. The petitioner is in judicial custody from 29.10.2022 and no previous case is pending against the petitioner. Hence, he prays for grant of anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor would submit that totally 3 accused are involved in this case. The petitioner was arrayed as A1. The petitioner and the other accused were found in illegal possession of 680 Kg of banned Tobacco product worth about Rs.9 lakh. No previous case is pending against the petitioner and 6 witnesses have been examined in this case. However, A2 & A3 are still absconding and the investigation is still pending. Hence, he strongly opposed to grant bail to the petitioner.

5.Considering the period of incarceration and also considering the fact that no bad antecedent is reported against the petitioner and 6 witnesses have been examined in this case, 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, Puthapandi, Kanyakumari District.

(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 is directed to deposit a sum of **Rs.50,000/- (Rupees Fifty Thousand only) to the credit of Crime No.321 of 2022**, without prejudice to his rights and contentions before the trial Court;

(iii)the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders;

(iv)the petitioner shall not tamper with evidence or witness;
(v)the petitioner shall not abscond during trial.

(vi)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].



vii) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
30/11/2022

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30/11/2022

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 JUDICIAL MAGISTRATE,
PUTHAPANDI, KANYAKUMARI DISTRICT.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
- 3 THE OFFICER INCHARGE,
SUB JAIL, NAGERCOIL, KANYAKUMARI DISTRICT.
- 4 THE INSPECTOR OF POLICE,
ARALVOIMOZHI POLICE STATION,
KANYAKUMARI DISTRICT.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.RADHAKRISHNAN G Advocate SR.No.13988

**ORDER
IN**

CRL OP(MD) No.21184 of 2022
Date : 30/11/2022

DSS
SA/SSS/SAR. /30.11.2022/3P/7C