



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 30/11/2022

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PRESENT

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

CRL OP(MD). No.21177 of 2022

S.Basith Raja

... Petitioner/1st Accused

Vs

State Rep.by
The Inspector of Police,
Cumbum North Police Station,
Theni District.
(Crime No.360 of 2022).

... Respondent/Complainant

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

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

PRAYER :-

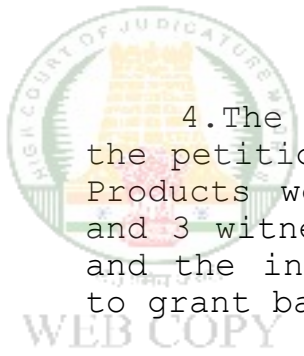
For Bail in Crime No. 360 of 2022 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/Accused No.1, who was arrested and remanded to judicial custody on 16.11.2022 for the offences punishable under Sections 272, 273, 328 of IPC and 24(1), 6(b) of COTP Act, 2003, in Crime No.360 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner sold the tobacco product to the defacto complainant. On the basis of the complaint given by him, search was made by the respondent police in his shop. At that time, they found illegal possession of 300 KG of Tobacco Products worth about Rs.1,73,000/-. 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 no recovery was made from the petitioner's shop as alleged by the prosecution. No previous case is pending against the petitioner and he is in judicial custody from 16.11.2022. Hence, he prays for grant of bail to the petitioner.



4.The learned Additional Public Prosecutor would submit that the petitioner was found in illegal possession of 300 KG of Tobacco Products worth about Rs.1,73,000/-. He is having no previous case and 3 witnesses have been examined. However, A2 is 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 facts that no bad antecedent is reported against the petitioner and 3 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, Uthamapalayam, Theni 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.15,000/- (Rupees Fifteen Thousand only) to the credit of Government Rajaji Hospital, Madurai (Indian Bank, Tallakulam (233) Branch, CIF No:30418657357, IFSC Code: IDIB000T003, MICR Code: 625019008, A/c No:7097546149) for the purpose of constructing Cancer Institute,** 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

/ TRUE COPY /

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, 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.

WEB COPY

- TO
- 1 THE JUDICIAL MAGISTRATE, UTHAMAPALAYAM, THENI DISTRICT.
 - 2 DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE, THENI DISTRICT.
 - 3 THE OFFICER INCHARGE, SUB JAIL, UTHAMAPALAYAM.
 - 4 THE INSPECTOR OF POLICE, CUMBUM NORTH POLICE STATION, THENI DISTRICT.
 - 5 THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO

THE DEAN,
GOVERNMENT RAJAJI HOSPITAL,
MADURAI.

ORDER
IN
CRL OP(MD) No.21177 of 2022
Date :30/11/2022

DSS
RS/VR/SAR.(30.11.2022) 3P-7C