



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2022

PRESENT

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P (MD) No.21635 of 2022

WEB COPY

1.Eliyas
2.Ebenezar

... Petitioners/Accused No.2&3

-VS-

The State Rep.By
The Inspector of Police,
Thazhamuthunagar Police Station,
Thoothukudi District.
(Cr.No.420 of 2022)

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the Petitioners on bail in the event of their arrest in connection with Cr.No.420 of 2022 on the file of the Respondent Police.

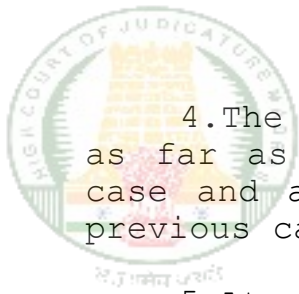
For Petitioners	: Mr.K.Chengiz Khan Advocate
For Respondent	: Mr.K.Sanjai Gandhi Government Advocate (Crl.side)

ORDER

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 5, 22 (a), 6(a), 24(1), 7, 20(1) of Cigarette and other Tobacco Products Act and under Section 328 of IPC in Crime No.420 of 2022 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant, is that the petitioners along with four other accused, were found in possession of tobacco worth about Rs.3,60,440/-. Hence, the complaint.

3.The learned Counsel for the petitioners would submit that the petitioners are innocent. He would further submit that the brother of the petitioners was arrested and the petitioners have gone to the police station and questioned them and at that time, they have also implicated in this case.



4.The learned Government Advocate (crl.side) would submit that as far as the first petitioner is concerned, he has one previous case and as far as the second petitioner is concerned, he has no previous case against him and he opposes to grant anticipatory bail.

5.At this juncture, the learned Counsel for the petitioners would submit that the petitioners are ready to deposit **(*)Rs.60,000/-** each as non-refundable deposit to any welfare scheme of the Government.

6.Heard the learned Counsel. Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7.Accordingly, the petitioners shall pay a sum of **(*)Rs.60,000/-** each to the credit of The Dean/Medical Officer, Tuticorin Medical College Hospital, without prejudice to their rights and contentions before the trial Court and produce the receipt/acknowledgment before the learned Judicial Magistrate No.II, Thoothukudi, at the time of furnishing sureties.

8.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate-II, Thoothukudi, on condition that the petitioners shall execute bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners 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 petitioners shall report before the respondent police everyday at 10.30 a.m., for a period of two weeks, thereafter every Saturday at 10.30 am until further orders.

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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]**.



[f] If the accused thereafter absconds, a fresh FII registered under Section 229A IPC.

9. Post the matter for reporting compliance on 09.01.2023.

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sd/-
07/12/2022

(*) BEING MENTIONED, AS PER THE ORDER OF THIS HONOURABLE COURT DATED 23/12/2022 IN CRL OP(MD) NO.21635 OF 2022.

FURTHER TWO WEEKS TIME IS EXTENDED TO COMPLY WITH THE CONDITIONS.

/ TRUE COPY /

23/12/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

TO BE SUBSTITUTED WITH THE ORDER DATED 07/12/2022 ALREADY DESPATCHED.

1. THE JUDICIAL MAGISTRATE NO.II, THOOTHUKUDI.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE, THOOTHUKUDI DISTRICT.
3. THE SUB INSPECTOR OF POLICE, THAZHAMUTHUNAGAR POLICE STATION, THOOTHUKUDI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO :

1. THE DEAN/MEDICAL OFFICER, TUTICORIN MEDICAL COLLEGE HOSPITAL, TUTICORIN.
2. THE SECTION OFFICER, CRIMINAL SECTION, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S. CHENGIZ KHAN.K Advocate SR.No.60636 (F).

ORDER IN
CRL OP(MD) No.21635 of 2022
Date : 07/12/2022

CMR
USK/VR/SAR-IV/20.12.2022/3P/8C
AAV
USK/SSS/SAR- /23.12.2022/3P/8C

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