



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

Date : 11/01/2023

PRESENT

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The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD). No.673 of 2023

Esakki

... Petitioner/Accused No.1

Vs

The State Rep. by,
The Inspector of Police,
Kadayam Police Station,
Tenkasi District.
(Crime No.359/2022).

... Respondent/Complainant

For Petitioner : M/s.S.Ragaventhree
Advocate.

For Respondent : Mr.T.Senthilkumar,
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime No.359/2022 on the file of the Respondent Police.

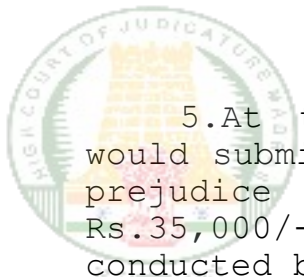
ORDER : The Court made the following order :-

The petitioner/A1, who was arrested and remanded to judicial custody on 20.12.2022 for the offence punishable under Section 328 IPC and Section 6(b) and 24(1) of COTPA Act 2003 in Crime No.359 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the accused persons were found in illegal possession of banned tobacco products worth about Rs.20,268/-. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. Hence, she seeks for bail.

4.The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner is a habitual offender and having four previous cases, out of which, three previous cases of similar in nature and he would oppose for grant of bail.



5. At this juncture, the learned counsel for the petitioner would submit that the petitioner is aged about 65 years and without prejudice to his defence, he is ready and willing to deposit Rs.35,000/- (Rupees Thirty Five Thousand only) to any welfare scheme conducted by the Government.

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6. Heard. Perused the materials available on record including the First Information Report.

7. Taking into consideration of the facts and submissions made by the learned counsels and also taking into consideration the period of incarceration, this Court is inclined to grant bail to the petitioner subject to the following conditions:

8. Accordingly, the petitioner shall make a donation/non-refundable deposit a sum of Rs.35,000/- (Rupees Thirty Five Thousand only) to the credit of **Women Advocates Association, Madurai Bench of Madras High Court (Account No:6477041768, IFSC Code:- IDIB00H040, Indian Bank, High Court Branch, Madurai)** for the purpose of maintaining crèche without prejudice to his rights and contentions before the trial Court and produce the receipt/acknowledgement before the trial Court. However, it is made clear that the deposit being made by the petitioner, would not amount of admission of guilt by him.

9. On production of proof of such receipt/acknowledgement, the petitioner is ordered to be released on bail on condition to 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 Judicial Magistrate, Ambasamudram and on further conditions that:

(a) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned 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 a.m., until further orders;

(c) the petitioner shall not commit any offences of similar nature;

(d) the petitioner shall not abscond either during investigation or trial;

(e) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(f) on breach of any of the aforesaid conditions, the learned Judicial 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];



(g) if the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-
11/01/2023

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11/01/2023

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

SJI

TO

1. THE JUDICIAL MAGISTRATE,
AMBASAMUDRAM.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
3. THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.
4. THE INSPECTOR OF POLICE,
KADAYAM POLICE STATION,
TENKASI DISTRICT.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO :

THE OFFICER-INCHARGE,
WOMEN ADVOCATES ASSOCIATION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.PRABHU K, Advocate (SR-558[I] dated 11/01/2023)

ORDER
IN
CRL OP(MD) No.673 of 2023
Date :11/01/2023

USK/SSS/SAR- /11.01.2023/3P/8C