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CRL OP(MD).



23

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 19/01/2023

PRESENT

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

CRL OP(MD) . No.1019 of 2023

Benasirkhan

... Petitioner/2nd Accused

Vs

State Rep.by
The Inspector of Police,
Natchiyarpuram Police Station,
Sivagangai District.
(Crime no.82 of 2022).

... Respondent/Complainant

For Petitioner : M/s.T.Lenin Kumar, Advocate.
For Respondent : Mr.T.Senthilkumar,
Additional Public Prosecutor

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

PRAYER :-

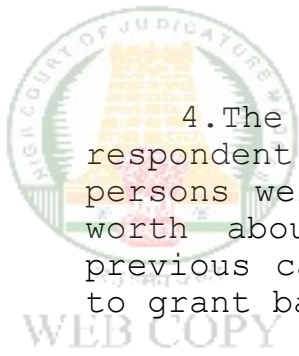
For Bail in Crime No.82 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A2, who was arrested and remanded to judicial custody on 27.12.2022 for the offence punishable under Sections 272,273,328 of IPC and Section 24(1) of Cigarette and Other Tobacco Products Act,2003 in Crime No.82 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner along with other accused persons were found in illegal possession of banned tobacco products worth about Rs.14,10,000/- 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. He would further submit that the petitioner is only running a petty shop and he is no way connected with the crime.



4.The learned Additional Public Prosecutor appearing as the respondent would submit that petitioner along with other accused persons were found in illegal possession of banned tobacco products worth about Rs.14,10,000/- He would further submit two similar previous cases are pending against the petitioner. Hence he opposed to grant bail to the petitioner.

5.At this juncture the learned counsel for the petitioner would submit that the co-accused have been released on bail and the petitioner is ready to abide by any stringent conditions that may be imposed by this Court and without prejudice to his defence he is also ready to make a donation for any welfare scheme of the Government. Hence he seeks bail.

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 and the submission to make a voluntarily donation to any welfare scheme, 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.1,50,000/- (Rupees One lakh and fifty thousand only) to the credit of **Model School for Girls, Y.Othakadai, Ulaganeri, Madurai (Account No:10968750674, IFSC Code:- SBIN0002246, State Bank of India, Othakadai Branch, Madurai)** 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, Thirupathur, and on further conditions that:

(a) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Special Court/concerned Court 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 Special Court/concerned 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 Special Court/concerned 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/-

19/01/2023

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19/01/2023

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

AAV

TO

- 1 THE JUDICIAL MAGISTRATE, THIRUPATHUR.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, SIVAGANGAI DISTRICT.
- 3 THE OFFICER INCHARGE, DISTRICT JAIL, SIVAGANGAI DISTRICT.
- 4 THE INSPECTOR OF POLICE, NATCHIYARPURAM POLICE STATION, SIVAGANGAI DISTRICT.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO

THE PRINCIPAL,
MODEL SCHOOL FOR GIRLS,
Y.OTHAKADAI, ULAGANERI,
MADURAI.

+1 CC to M/s.LENIN KUMAR.T, Advocate (SR-770[I] dated 19/01/2023)

ORDER IN

CRL OP(MD) No.1019 of 2023

Date :19/01/2023