



CRL OP(MD)No.18483 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 16.10.2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD)No.18483 of 2023

1.M.Palraj

2.P.Murugalakshmi

... Petitioners/ Accused 1 & 2

Vs

The State rep.by,
The Inspector of Police,
Sivakasi Town Police Station,
Virudhunagar District.
Crime No.346 of 2023.

... Respondent/ Complainant

For Petitioners : Mr.M.Kannan, Advocate

For Respondent : Mr.RMS.Sethuraman,
Additional Public Prosecutor.

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



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PRAYER :-
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For Bail in Crime no.346 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners, who were arrested and remanded to judicial custody on 03.10.2023 for the alleged offence punishable under Sections 328 IPC r/w Section 6(b) and 24(1) of the Cigarette and Other Tobacco Products Act, 2003 in Crime No.346 of 2023, on the file of the respondent police, seek bail.

2.The case of the prosecution is that on 03.10.2023, based on the secret information the police party went to the place of occurrence. At that time, the accused persons were standing with a white gunny bag. On seeing the police party, they tried to escape, however, the police caught them and checked the white gunny bag and found 48 pockets of Ganesh 701 tobacco. Hence the case.

3.The learned counsel appearing for the petitioners would contend that the petitioners are innocent and they have not committed any offence as alleged by the prosecution. He would further submit that the petitioner is in custody from 03.10.2023, hence he seeks bail.



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4.The learned Additional Public Prosecutor appearing for the respondent Police would submit that petitioners caught red handed while they were tried to sell tobacco illegally. He would further submit that A1 is having one previous case and hence, he strongly objected to grant bail to the petitioners. However, he would fairly concede that there is no previous case pending as against the second petitioner.

5.At this juncture, the learned counsel appearing for the petitioners seeks permission of this Court to withdraw this petition, as far as the first petitioner is concerned. Permission granted and this petition is dismissed as withdrawn, as far as the first petitioner is concerned.

6.As far as the second petitioner is concerned, considering the period of incarceration and also considering the fact that there is no previous case pending against her and taking into consideration of the principle stated by the Honourable Supreme Court in Sanjay Chandra and others vs. CBI reported in (2012)1 SCC 40, this Court is inclined to grant bail to the petitioner, subject to the following conditions:



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[i] Accordingly, this criminal original petition is partly-allowed and the second 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 Judicial Magistrate Court No.I, Sivakasi, Virudhunagar District and on further conditions that:

(ii) 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;

(iii) the second petitioner shall appear before the trial Court on summons.

(iv) the second petitioner shall not tamper with evidence or witness;

(v) the second 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 second petitioner in accordance with law as if the conditions have been imposed and the second petitioner



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released on bail by the learned Magistrate/Trial Court himself as laid down by the
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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/-
16/10/2023

/ TRUE COPY /

16/10/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

gns

TO

1 THE JUDICIAL MAGISTRATE NO.I, SIVAKASI, VIRUDHUNAGAR DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUANGAR DISTRICT @ SRIVILLIPUTHUR.

3.THE OFFICER IN CHARGE,
PARAMAKUDI, SUB JAIL.

4.THE INSPECTOR OF POLICE,
SIVAKASI TOWN POLICE STATION,
VIRUDHUNAGAR DISTRICT.

5.THE OFFICER IN CHARGE,
SUB JAIL, SRIVILLIPUTHUR.

<https://www.mhc.tn.gov.in/judis>



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6.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.M.KANNAN, Advocate (SR-15221[I] dated 16/10/2023)

ORDER
IN

CRL OP(MD) No.18483 of 2023

Date :16/10/2023

RK (16/10/2023) 6P / 8C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023