



CRL OP(MD). No.19055 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 20/10/2023

PRESENT

The Hon`ble Mr.Justice V.SIVAGNANAM

CRL OP(MD). No.19055 of 2023

1. Sharwan Kumar,
2. Mithesh Devasi,

... Petitioners/ Accused 1 & 2

Vs

The Inspector of Police,
Thiruppanandal Police Station,
Thanjavur District.
Cr.No.445/2023.

... Respondent/Complainant

For Petitioner : Mr.PR.BOOMEERAJAN,
Advocate.

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

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

PRAYER :- For Bail in Crime No. 445/2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/ A1 and A2, who were arrested and remanded to judicial custody on 26.09.2023 for the alleged offences punishable under Sections 328 of IPC r/w.Section 20(2), 24(1) of Cigarette and Other Tobacco Products Act,2003 in Crime No.445 of 2023, on the file of the respondent police, seek bail.

2.The case of the prosecution is that the petitioners were found in illegal possession of banned tobacco products. Hence the case.



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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 petitioners are in custody from 26.09.2023, hence he seeks bail.

4.The learned Additional Public Prosecutor appearing for the respondent Police would submit that the petitioners were found in illegal possession of banned tobacco products, hence he objected to grant bail to the petitioners. However he fairly concedes that no previous case is pending against the petitioners.

5.Considering the facts and circumstances and also considering the period of incarceration and also taking note of the fact that no previous case is pending against the petitioners and also the fact that the petitioner is only a driver and also 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 petitioners, subject to the following conditions:

[i] Accordingly, the petitioners are ordered to be released on bail on condition to execute a 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 learned District Munsif cum Judicial Magistrate, Thiruvudaimaruthur and on further conditions that:

(ii) the sureties shall affix their photographs and left thumb impression in the



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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 petitioners shall appear before the respondent police daily at 10.30 am., until further orders.

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

(v) the petitioners 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 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].

vii) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
20/10/2023

/ TRUE COPY /

20/10/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AAV
TO

1 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
THIRUVIDAIMARUTHUR, THANJAVUR DISTRICT.

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



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2 DO THROUGH THE CHIEF JUDICIAL
MAGISTRATE, THANJAVUR DISTRICT AT KUMBAKONAM.

3 THE OFFICER INCHARGE,
SUB JAIL, THIRUVIDAIMARUTHUR.

4 THE INSPECTOR OF POLICE,
THIRUPPANANDAL POLICE STATION, THANJAVUR DISTRICT.

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

ORDER IN
CRL OP(MD) No.19055 of 2023
Date :20/10/2023

SA/SAR. /20.10.2023/4P/6C
Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.