



CRL OP(MD). No.19263 of 2023

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

Date : 26/10/2023

PRESENT

The Hon`ble Mr.Justice R.SAKTHIVEL

CRL OP(MD). No.19263 of 2023

1. Murugan

2. Selvapandi

... Petitioners / Accused Nos.1 & 2

Vs

State through

The Inspector of Police,

Sivakasi East Police Station,

Virudhunagar, Virudhunagar District.

(In Crime No.468/2023)

... Respondent / Complainant

For Petitioners : M/s.M.Subhass Muthulingam, Advocate

For Respondent : Mr.M.Sakthi Kumar,
Government Advocate (Crl.Side)

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :- For Anticipatory Bail in Crime no.468 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/Accused, who apprehend arrest at the hands of the respondent police for the alleged offence punishable under Sections 9(B)(1)(a) of



CRL OP(MD). No.19263 of 2023

Indian Explosives Act, 1884, in Crime No.468 of 2023, on the file of the respondent, filed this petition under Section 438 of Cr.P.C., praying to grant an order of pre-arrest bail.

2. The case of the prosecution is that the first petitioner herein is the owner and second petitioner herein is the Accountant of the Fireworks namely Ooviya Fireworks (Xtpah gl;lhR njhopw;rhly). The Village Administrative Officer, Anuppankulam is the Defacto complainant. The defacto complainant and his higher officials inspected the Fireworks Factory on 19.10.2023 at 05.30p.m. At the time of inspection, 40 women workers and 10 male workers were engaged in manufacturing of crackers in the open place under the tree, by violating the terms and conditions prescribed as per the Indian Explosives Act, 1884 (hereinafter referred to as 'the Act'). Based on the complaint given by the Village Administrative Officer, a case was registered against the petitioners in Crime No.468 of 2023 under Sections 9(B)(1)(a) of Indian Explosives Act, 1884.

3. The learned counsel for the petitioners submitted that the first petitioner is the owner of the Fireworks, in which, the second petitioner is the Accountant. The petitioners did not commit any violation of Rules or License Conditions. The respondent Police has falsely registered a case against the petitioners and no property was seized by the respondent Police. Further, he



CRL OP(MD). No.19263 of 2023

WEB COPY

submitted that the alleged violation attracts imprisonment for a term up to three years, or with fine which may extend to five thousand rupees, or with both. The petitioners have permanent residence and they are ready to furnish any surety as ordered by this Court. Hence, he prayed to allow the petition.

4. The learned Government Advocate (Crl.Side) appearing for the respondent submitted that the petitioners had engaged 40 women workers and 10 male workers in cracker manufacturing process in a open place under the tree by violating the Rules and Regulations as prescribed under the Act. Hence, he objected to allow the petition by saying that if bail is granted, the petitioners may commit similar offences. Accordingly, the learned Government Advocate (Crl.Side) prayed to dismiss the petition.

5.Heard on both sides. This Court has perused the records.

6.Petitioners have permanent residence and have business. Hence, the possibility of absconding is very less. It is alleged that the petitioners had violated the license conditions, Rules and Regulations prescribed under the Act. Considering the nature of offence allegedly committed by the petitioners, this Court is of the considered view that custodial interrogation of the petitioners may not be necessary in this case. Hence, this Court is inclined to grant an order of pre-arrest bail to the petitioners subject to the conditions:-



CRL OP(MD). No.19263 of 2023

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7. Accordingly, this Criminal Original Petition is allowed. Pre-arrest bail order is granted to the petitioners subject to the following conditions:-

i) the petitioners are ordered to be released on bail in the event of their arrest or on their surrender before the learned Judicial Magistrate No.II, Sivakasi, within a period of 15 days from today, on executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Sivakasi;

(ii) the petitioners shall appear before the respondent police weekly twice ie., on every Monday and Friday at 10.00 a.m., until further orders;

(iii) the petitioners and the sureties shall affix their photographs and left thumb impression in the application for Suretyship (Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Magistrate may obtain a copy of any one of identity proof to ensure their identity;

(iv) the petitioners shall not tamper with the evidence or witness either during investigation or trial;

(v) the petitioners shall appear and co-operate with the Investigating Agency as and when required for investigation;

(vi) If the petitioners abscond, a fresh FIR shall be registered under Section 229

(A) of IPC;



CRL OP(MD). No.19263 of 2023

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(vii) on breach of any of the aforesaid conditions, the learned Magistrate is entitled to pass appropriate orders against the petitioners in accordance with law, as if the aforementioned conditions are imposed by themselves as laid down by the Hon'ble Supreme Court in P.K.Shaji Vs. State of Kerala [(2005) 13 SCC 283].

sd/-
26/10/2023

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/11/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PNM

To

1.The Judicial Magistrate No.II,
Sivakasi.

2.Do through the Chief Judicial Magistrate,
Virudhunagar District at Srivilliputhur.

3.The Inspector of Police,
Sivakasi East Police Station,
Virudhunagar,
Virudhunagar District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.R.RAJAMOHAN, Advocate (SR-15626[I] dated 27/10/2023)



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CRL OP(MD). No.19263 of 2023

ORDER

IN

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Date :26/10/2023

ED/VRS/SAR- (02/11/2023) 6P / 6C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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