



CRL OP(MD). No.19378 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 13/12/2023

PRESENT

The Hon'ble Mr.Justice V.SIVAGNANAM

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1. Sundar

2. Viswanthan

3. Rajesh @ Pandidurai

... Petitioners/ Accused No.1 to 3

Vs

The Inspector of Police,
M.Pudupatti Police Station,
Virudhunagar District.
(Crime No.172/2023).

... Respondent/Complainant

For Petitioner : Mr.E.Mareeskumar, Advocate.

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

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

PRAYER :-

For Anticipatory Bail in Crime No.172/2023 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 offences punishable under Sections 286 IPC and Section 9(B)(1)(a) of Indian Explosives Act, 1984 in Crime No.172 of 2023 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that on 22.10.2023, the respondent police conducted a surprise visit in the fireworks factories within the jurisdiction of the respondent along with revenue officials. At that time, it was found that the crackers



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are manufactured by the labours of the petitioners' factory outside the building premises and specially they made crackers under the trees in the factory premises. The said act of the labours is against the violation of the licence conditions. Hence, the complaint.

3.The learned counsel appearing for the petitioners would submit that the petitioners are the innocent persons and they have not committed any offence as alleged by the prosecution. Hence, he prays for anticipatory bail to the petitioners.

4.The learned Additional Public Prosecutor appearing for the respondent police would submit that in this case, the second petitioner/Viswanathan was arrested and remanded to judicial custody. He would further submit that the act of the labours is against the violation of the licence conditions. Hence, he has strongly opposed to grant anticipatory bail to the petitioners.

5.Heard both sides and perused the materials available on the record.

6. Considering the facts and circumstances of the case and taking into consideration the principles stated by the Honourable Supreme Court in Gurubaksh Singh Sibbia Etc., vs. State of Punjab reported in 1980 AIR 1632 and Lal Kamendra Pratap Singh vs. State of Uttar Pradesh and others reported in (2009)4 SCC 437 and Joginder Kumar vs. State of U.P. and others reported in (1994)4 SCC 260 and taking into consideration the origin of crime, it is seen that the alleged offence against the



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petitioners is not a case of heinous crime. Further, the petitioners are having permanent resident at Virudhunagar District. Hence, the principles stated in Hussainara Khatoon & Ors vs. Home Secretary, State Of Bihar reported in AIR 1979 SC 1360 are taken into consideration. In that case, the Hon'ble Supreme Court has cautioned that pre-trial detention is not to be encouraged nor is to be encourageable pre-trial release on sureties; that if the Court is satisfied after taking into consideration that the accused has his roots in the community and is not likely to abscond, he can safely be released on his personal bond.

7. In view of the above, this Court is inclined to grant anticipatory bail to the petitioner Nos.1 and 3. Accordingly, the petitioners No.1 and 3 are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy is made ready, before the learned Judicial Magistrate No.II, Sivakasi on condition that the petitioner Nos.1 and 3 shall execute a own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that :

[a] the petitioner Nos.1 and 3 shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar



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Card or Bank Pass Book to ensure their identity.

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[b] the petitioner Nos.1 and 3 shall report before the trial Court on summons.

[c] the petitioner Nos.1 and 3 shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner Nos.1 and 3 shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner Nos.1 and 3 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].

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

This petition is dismissed respect of the second petitioner Viswanathan alone, since he was arrested and remanded to Judicial custody.

sd/-
13/12/2023

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/01/2024
Sub-Assistant Registrar (C.S.I/II/III/IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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TO

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1 THE JUDICIAL MAGISTRATE NO.II, SIVAKASI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTTUR.

3 THE INSPECTOR OF POLICE, M.PUDUPATTI POLICE STATION,
VIRUDHUNAGAR DISTRICT.

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

ORDER
IN

CRL OP(MD) No.19378 of 2023

Date :13/12/2023

RS/JGB/SAR-(03.01.2024) 5P 5C

Madurai Bench of Madras High Court is issuing
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