



CRL OP(MD). No.20819 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 20/11/2023

PRESENT

The Honourable Mr.Justice V.SIVAGNANAM

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Malliga

... Petitioner/ Accused No.2

Vs

**The Inspector of Police,
Sivakasi East Police Station,
Virudhunagar District.
(Crime No.433 of 2023).**

... Respondent/ Complainant

**For Petitioner : Mr.S.M.Anantha Murugan, 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. 433 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/ A2, who apprehends arrest at the hands of the respondent police

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for the offences punishable under Sections 328 IPC and Sections 6(b) r/w 24(1) Cigarette and other Tobacco Products Act, 2003 in Crime No.433 of 2023 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner and her husband were selling band Tobacco products. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is the innocent person and she has not committed any offence as alleged by the prosecution. Hence, he prays for anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent police would submit that the petitioner and her husband were selling band Tobacco products. The defacto complainant went to the occurrence place and arrested the petitioner's husband. Based on the confession of the petitioner's husband, the petitioner has been implicated in this case. Hence, he strongly opposed to grant anticipatory bail to the petitioner.

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



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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 petitioner is not a case of heinous crime. Further, the petitioner is 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 is 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. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his 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 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 Judge concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further

condition that :

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[a] the petitioner shall affix his photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of her Aadhar Card or Bank Pass Book to ensure her identity.

[b] the petitioner shall report before the trial Court on summons.

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

[d] the petitioner 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 in accordance with law as if the conditions have been imposed and the petitioner 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.

sd/-
20/11/2023

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/12/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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SKN
TO

- 1 THE JUDICIAL MAGISTRATE NO.II
SIVAKASI.
- 2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT @ SRIVILLIPUTHUR.
- 3 THE INSPECTOR OF POLICE
SIVAKASI EAST POLICE STATION,
VIRUDHUNAGAR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.S.M.ANANTHA MURUGAN, Advocate (SR-16581[I] dated
21/11/2023)

ORDER
IN
CRL OP(MD) No.20819 of 2023
Date :20/11/2023

PKP/JGB/SAR- /01.12.2023/ 5P/ 6C

Madurai Bench of Madras High Court is issuing certified
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