



CRL OP(MD)No.21497 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 29.11.2023

PRESENT

The Hon`ble MR JUSTICE V.SIVAGNANAM

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T.Jayakumar @ Thaveethu

... Petitioner/ Accused No.2

Vs

The Inspector of Police,
Boothapandy Police Station,
Kanyakumari District.
(Crime No.231 of 2023)

... Respondent/ Complainant

For Petitioner : Mr.S.Sureshkumar, 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.231 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 328 IPC and Section 24(1), 6(a) of the Cigarette



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and Tobacco Products Act, 2003 in Crime No.231 of 2023 on the file of the respondent
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police, seeks anticipatory bail.

2.The case of the prosecution is that on 05.11.2023, when the police party conducted vehicle check up, they stopped a car bearing Reg.No.KL 01AP 8709 and searched the same. On search, it was found that the accused persons were in illegal possession of 385 kgs of Ganesh Tobacco, cool lip and Pan Masala packet. On seeing the police, the petitioner herein ran away from the scene of occurrence. Hence, the case.

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

4.The learned Additional Public Prosecutor appearing for the respondent police would submit that the investigation in this case is pending.

5.Considering the nature of allegations levelled as against the petitioner and taking into consideration the principles stated by the Honourable Supreme Court in

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



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Gurubaksh Singh Sibbia Etc., vs. State of Punjab reported in 1980 AIR 1632 and Lal Kamlendra 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 offence alleged as against the petitioner is not a case of heinous crime. Further the petitioner is having permanent residence at Kanyakumari 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.

6. 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, Boothapandy, Kanyakumari District 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



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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 shall affix his photograph and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure his 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].



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

sd/-
29/11/2023

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

gns

TO

1.THE JUDICIAL MAGISTRATE,
BOOTHAPANDY, KANYAKUMARI DISTRICT

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI @ NAGERCOIL.

3.THE INSPECTOR OF POLICE,
BOOTHAPANDY POLICE STATION, KANYAKUMARI DISTRICT.

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

+1 CC to M/s.S.SURESH KUMAR, Advocate (SR-17062[I] dated 29/11/2023)

ORDER
IN

CRL OP(MD) No.21497 of 2023
Date :29/11/2023

RK/DD (11/12/2023) 5P / 6C

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