



CRL OP(MD)No.21621 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 05.12.2023

PRESENT

The Hon`ble MR JUSTICE V.SIVAGNANAM

CRL OP(MD)No.21621 of 2023

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... Petitioner/ Accused Rank Not Known

Vs

The Inspector of Police,
Gandamaur Police Station,
Theni District.
(In Crime No.14 of 2023)

... Respondent/Complainant

For Petitioner : Mr.S.Vikram, 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.14 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 272, 273, 328 IPC and Section 6(a) & 24(1) of the Cigarette and Other Tobacco Products Act, 2003 in Crime No.14 of 2023 on the file of the respondent police, seeks anticipatory bail.



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2.The case of the prosecution is that on 25.01.2023, when the respondent police on vehicle check up duty, they stopped one Eicher vehicle and then, the driver of the said vehicle stopped the vehicle and escaped from the scene of occurrence. On search, the police party recovered banned tobacco products, worth about Rs.6,33,132/-. 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 there is no previous case pending as against the petitioner.

5.On perusal of records, it is noticed that the petitioner is not having any previous cases.

6.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 offence alleged as against the petitioner is not a case of heinous crime. Further the petitioner is having permanent residence at Krishnagiri District. Hence the principles stated in



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Hussainara Khatoon & Ors vs. Home Secretary, State Of Bihar reported in AIR 1979

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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, Aundipatti, Theni 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 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.



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[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/-
05/12/2023

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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, AUNDIPATTI, THENI DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, THENI DISTRICT.

3 THE INSPECTOR OF POLICE, GANDAMANUR POLICE STATION,
THENI DISTRICT.



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

ORDER
IN

CRL OP(MD) No.21621 of 2023

Date :05/12/2023

RS/JGB/SAR-(14.12.2023) 5P 5C
Madurai Bench of Madras High Court is issuing
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