



CRL.O.P.(MD).No.22834 of 2023

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

Date: 18.12.2023

PRESENT

The Hon`ble MR JUSTICE V.SIVAGNANAM
CRL.O.P.(MD).No.22834 of 2023

1.Madasamy
2.Jeyakumar

... Petitioners/ Accused no.unkown

Vs

The Inspector of Police,
Sattur Town Police Station,
Virudhunagar District.
Crime No.384 of 2023

... Respondent/ Complainant

For Petitioners :Mr.A.Joseph Jerry, Advocate

For Respondent :Mr.R.Suresh Kumar
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.384 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/Rank not known, who apprehend arrest at the hands of the respondent police for the offences punishable under Section 328 of IPC and Section 6(a) and 24(1) of Cigarette and Other Tobacco Products Act, 2003 in Crime No.384 of 2023 on the file of the respondent police, seek anticipatory bail.



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2.The case of the prosecution is that on a vehicle check up, the respondent police found that the accused persons were found to be in illegal possession of banned tobacco products. Hence, the case.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent and a false case has been foisted against them, hence, he seeks anticipatory bail.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that on a vehicle check up, the respondent police found that the accused persons were found to be in illegal possession of banned tobacco products. He would also submit that the first petitioner has five previous cases of similar nature. Hence, he objected to grant anticipatory bail to the petitioners.

5.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 origine of crime, it is seen that the



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offencest alleged as against the petitioners is not a case of heinous crime. Further the second petitioner is having permanent residents at Tirunelveli 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, they can safely be released on their personal bond.

6.In view of the above, this Court is inclined to grant anticipatory bail to the second petitioner. Accordingly, the second 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 made ready, before the learned Judicial Magistrate-II, Sathur, on condition that the second petitioner shall execute 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:



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

[b] the second petitioner shall report before the trial Court on receipt of summons

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

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



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7. Considering the nature of allegations levelled as against the first petitioner and considering the previous bad antecedents of the first petitioner, this Court is not inclined to grant anticipatory bail to the first petitioner. Accordingly, this criminal original petition is dismissed as against the first petitioner.

sd/-
18/12/2023

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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

1. THE JUDICIAL MAGISTRATE-II, SATHUR.
2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT @ SRIVILLIPUTHUR.
3. THE INSPECTOR OF POLICE,
SATTUR TOWN POLICE STATION, VIRUDHUNAGAR DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to A. JOSEPH JERRY Advocate SR.No.18181

ORDER
IN

CRL OP(MD) No.22834 of 2023
Date :18/12/2023

RK/VR (02/01/2024) 5P / 6C

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