



CRL OP(MD). No.23316 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 21/12/2023

PRESENT

The Hon`ble Mr.Justice V.SIVAGNANAM

CRL OP(MD). No.23316 of 2023

Suresh Kumar,

... Petitioner/ Accused

Vs

The Inspector of Police,
Pazhugal Police Station,
Kanyakumari District,
Crime No.102/2023.

... Respondent/ Complainant

For Petitioner : M/s.SIVAKUMAR.S,
Advocate.

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

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :- For Bail in Crime No.102/2023 on the file of the respondent police

ORDER : The Court made the following order :-

The petitioner/ Accused who was arrested and remanded to judicial custody on 09.12.2023 for the alleged offence punishable under Sections 328 of IPC and Section 24 (1) of Cigarette and Other Tobacco Products Act, 2003 and Section 59 of Food Safety and Standards Act, 2006 in Crime No.102 of 2023, on the file of the respondent police, seeks bail.



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2.The case of the prosecution is that the petitioner was found in illegal possession of 353.4grams of banned tobacco products in his shop. Hence the case.

3.The learned counsel appearing for the petitioner would contend that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. He would further submit that the petitioner is in custody from 09.12.2023, hence he seek bail.

4.The learned Additional Public Prosecutor appearing for the respondent Police would submit that petitioner was found in illegal possession of 353.4grams of banned tobacco products in his shop, hence, he strongly objected to grant bail to the petitioner. However he fairly concedes that no previous case is pending against the petitioner.

5.Considering the nature of allegations made against the petitioner and also considering the period of incarceration and taking note of the fact that no previous case is pending against the petitioner and also taking into consideration of the principle stated by the Honourable Supreme Court in Sanjay Chandra and others vs. CBI reported in (2012)1 SCC 40 and the nature of the offence alleged by the petitioner, this Court is inclined to grant bail to the petitioner.

6.Accordingly, the petitioner is ordered to be released on bail on condition to execute a own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) subject to



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the satisfaction of the learned Judicial Magistrate No.I, Kuzhithurai and on further conditions that:

- (i) the petitioner shall appear before the trial Court on receipt of summons
- (ii) the petitioner shall not tamper with evidence or witness;
- (iii) the petitioner shall not abscond during trial.

(iv) 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].

v) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
21/12/2023

/ TRUE COPY /

21/12/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AAV
TO
1 THE JUDICIAL MAGISTRATE NO.I,
KUZHITHURAI.

2 DO THROUGH THE CHIEF JUDICIAL
MAGISTRATE, KANYAKUMARI DISTRICT AT NAGERCOIL.

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



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3 THE OFFICER INCHARGE,
SUB JAIL, KUZHITHURAI.

4 THE INSPECTOR OF POLICE,
PAZHUGAL POLICE STATION, KANYAKUMARI DISTRICT.

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

+1 CC to M/s.S.SIVAKUMAR, Advocate (SR-18151[I] dated 21/12/2023)

ORDER IN
CRL OP(MD) No.23316 of 2023
Date :21/12/2023

SA/SAR. /21.12.2023/4P/7C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.