



CRL OP(MD)No.23592 of 2023

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

Date : 28.12.2023

PRESENT

The Hon`ble Mr.Justice R.SAKTHIVEL

CRL OP(MD)No.23592 of 2023

Pothysraj

... Petitioner / Accused No.2

Vs

State Rep.by
The Inspector of Police,
Chinnakovilankulam Police Station,
Tenkasi District.
(Crime No.180 of 2023)

... Respondent / Complainant

For Petitioner : Mr.R.Mohanasundaram, Advocate

For Respondent : Mr.B.Thanga Aravindh,
Government Advocate(Crl.side)

PRAYER :- The Criminal Original Petition filed under Section 439 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to grant bail to the petitioner in Crime No.180 of 2023 on the file of the respondent police.

ORDER : The Court made the following order :-

This Criminal Original Petition has been filed by the petitioner on 26.12.2023 under Section 439 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to grant bail.



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2. The petitioner/A2 was arrested and remanded to judicial custody on 11.11.2023 for the alleged offences punishable under Section 328 of the Indian Penal Code, 1860 (Act No.45 of 1860) and Section 24(1) of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (Act No.34 of 2003) in Crime No.180 of 2023, on the file of the respondent-police.

3.The case of the prosecution is that on 11.11.2023, based on a secret tip, the police conducted vehicle check up in Sankarankoil to Tirunelveli Road; that though on seeing Police, the petitioner herein tried to escape, the police caught him; that on search, it was found that the petitioner herein was illegally in possession of 20.7 kgs of banned tobacco products, worth about Rs.42,840/-. Hence, the case.

4.The learned counsel for the petitioner submitted that the petitioner is an innocent and he has not committed any offence as alleged by the prosecution. He further submitted that the petitioner is in judicial custody from 11.11.2023. He therefore prayed to grant bail to the petitioner.

5.The learned Government Advocate (Criminal side) appearing for the respondent police submitted that the petitioner was illegally in possession of 20.7 kgs of banned tobacco products worth about Rs.42,840/-. He further submitted that the petitioner has no previous case; that investigation is not yet completed; and



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that at this stage of investigation, if bail is granted to the petitioner, he will cause threat to the defacto complainant and witnesses. Accordingly, he prayed to dismiss this Criminal Original Petition.

6. Heard on both sides. This Court has perused the records.

7.The petitioner is a first offender and he has no previous case. He has permanent residence and deep roots in the society. Hence, there is no possibility for absconding. Considering the above reasons, the period of incarceration and also with a view to give him an opportunity to reform himself, this Court is inclined to grant bail to the petitioner, however, subject to the conditions. Accordingly, bail is granted to the petitioner subject to the following conditions:

(i) The petitioner shall execute a bond for Rs.25,000/- (Rupees Twenty Five Thousand only) and furnish two sureties each for a like sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the satisfaction of the learned Judicial Magistrate, Sankarankovil;

(ii) The sureties shall affix their photographs and left thumb impression in the Application for Suretyship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Judicial Magistrate shall obtain a copy of any one of identity proofs to ensure their identity;



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(iii) The petitioner shall appear and sign before the respondent police daily at 10.00 a.m., until further orders;

(iv) The petitioner shall not, directly or indirectly, cause any threat to the defacto complainant and witnesses; and

(v) On breach of any of the aforementioned conditions, the learned Judicial Magistrate is entitled to pass appropriate orders against the petitioner in accordance with law as if the aforementioned conditions are imposed by themselves as laid down by the Hon'ble Supreme Court in P.K.Shaji Vs. State of Kerala [(2005)13 SCC 283].

8. Accordingly, this Criminal Original Petition is allowed subject to the conditions stated supra.

sd/-
28/12/2023

/ TRUE COPY /

29/12/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

GNS

To

1.The Judicial Magistrate,
Sankarankovil.



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2.Do through the Chief Judicial Magistrate,
Tirunelveli District.

3.The Inspector of Police,
Chinnakovilankulam Police Station,
Tenkasi District.

4.The Officer Incharge,
Sub Jail,
Sankarankovil.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.C.K.M.APPAJI, Advocate (SR-18385[I] dated 28/12/2023)

ORDER

IN

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Date :28/12/2023

ED/ /SAR- (29/12/2023) 5P / 7C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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