



Crl.O.P.(MD) No.23548 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.O.P.(MD) No.23548 of 2023

Alex Pandiyan

... Petitioner / 1st Accused

Vs

The Inspector of Police,
Manachanallur Police Station,
Trichy District.
(Crime No.382 of 2023)

... Respondent / Complainant

For Petitioner : Mr.M.Maruthupandian, Advocate

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

PRAYER: 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/1st Accused in Crime No.382 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/A1 was arrested and remanded to judicial custody on 05.12.2023 for the alleged offences punishable under Sections 273 and 328 of the Indian Penal Code, 1860 (Act No.45 of 1860) r/w Sections 6(a) and 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); and Section 77 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (Act No.2 of 2016) in Crime No.382 of 2023 on the file of the respondent police.

3. The defacto complainant is a Food Safety Officer. The case of the prosecution is that on 04.12.2023, when the Food Safety Officers were on raid, they found that the petitioner, in his grocery shop possessed 51.816kgs of banned tobacco products for the purpose of selling the same to school children, youngsters and public. 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 05.12.2023. 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 is the owner of the grocery shop and



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he possessed 51.816kgs of banned tobacco products in his grocery shop. He further submitted that the petitioner has one previous case; that investigation is not yet completed; and 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 Food Safety Officers seized 51.816kgs of banned tobacco products from the petitioner's grocery shop. The petitioner has permanent residence and has deep roots in the society. Considering the above reasons, there is less possibility for absconding. Hence, with a view to give one more opportunity to reform himself, and considering the nature of the offence allegedly committed by the petitioner, this Court is inclined to grant bail to the petitioner, however, subject to certain 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, of which, one surety shall be a blood relative, each for a like sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the satisfaction of the learned Judicial Magistrate No.III, Trichy;



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(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;

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

(iv) The petitioner shall not either 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

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



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TO

- 1 THE JUDICIAL MAGISTRATE NO.III
TRICHY.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TRICHY.
- 3 THE INSPECTOR OF POLICE
MANACHANALLUR POLICE STATION,
TRICHY DISTRICT.
- 4 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN

CRL OP(MD) No.23548 of 2023

Date :28/12/2023

SS/SAR- /29/12/2023/5P/6C

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