



CRL OP(MD)No.23582 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.23582 of 2023

Balakrishnan

... Petitioner / Accused No.2

Vs

The State Rep.by
The Sub-Inspector of Police,
Alanganallur Police Station,
Madurai District.
(In Crime No.501 of 2023)

... Respondent / Complainant

For Petitioner : Mr.M.Pozhilan, 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.501 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/Accused No.2 was arrested and remanded to judicial custody on 12.12.2023 for the alleged offences punishable under Sections 272, 328 of the Indian Penal Code, 1860 (Act No.45 of 1860) and Sections 6(b) 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 4(1)(a) of the Tamil Nadu Prohibition Act, 1937 (Act No.10 of 1937) and Section 77 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (Act No.2 of 2016) in Crime No.501 of 2023, on the file of the respondent police.

3. The case of the prosecution is that on 12.12.2023, when the police were on surveillance duty in Alanganallur, Kandhigramam Pattalamman Kovil Street, A1 was standing there in a suspicious manner and that on search, it was found that the petitioner was illegally in possession of 16 pockets of banned tobacco products and 4 number of liquor bottles. 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 based on the confession statement given by A1, the petitioner was implicated in this case and he is in judicial custody since 12.12.2023. He therefore prayed to grant bail to the petitioner.



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5.The learned Government Advocate (Criminal side) appearing for the respondent police submitted that the the accused persons were illegally in possession of banned tobacco products and liquor bottles. He further submitted 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 petitioner has permanent residence and deep roots in the society. Hence, there is no possibility for absconding. Considering the above reason, the period of incarceration and also with a view to give an opportunity to reform himself, this Court is inclined to grant bail to the petitioner, however, subject to 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, in which, one surety shall be blood relative, for a like sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the satisfaction of the learned Judicial Magistrate, Vadipatti, Madurai District;

(ii) The sureties shall affix their photographs and left thumb impression in the Application for Suretyship [Judicial Form No.46 annexed to 'The



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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 daily ie., twice at 10.00 a.m., and 05.00 p.m., until further orders;

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

(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 (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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To

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1.The Judicial Magistrate,
Vadipatti, Madurai District.

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

3.The Sub Inspector of Police,
Alanganallur Police Station,
Madurai District.

4.The Superintendent,
Central Prison, Madurai.

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

+1 CC to M/s.R.MANOCHARAN, Advocate (SR-18392[I] dated 28/12/2023)

ORDER

IN

CRL OP(MD) No.23582 of 2023

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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