



CRL OP(MD)No.7844 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 19.06.2024

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD)No.7844 of 2024

Sankar @ Shankar

... Petitioner/ Accused No.1

Vs

1.The Inspector of Police,
Sivakasi East Police Station,
Virudhunagar District.
Crime No.260 of 2024

(*)2.The Registrar,
Trade Marks Registry,
Mumbai.

... Respondents

(*)R2 is suo motu impleaded as per order of this
Court dated 19.06.2024 in CrI.O.P.(MD)No.7844
of 2024)

Sundaravel Match Industries Private Limited
rep by its Managing Director,
Mr.J.Madasamy
No.244, (Old No.69),
A.S.K.Thangaiah Nadar Road,
Sivakasi-626189.

...Petitioner/Intervenor
in CRL MP(MD)No.5586/2024



CRL OP(MD)No.7844 of 2024

WEB COPY

For Petitioner : Mr.Chellapandian,
Senior Counsel
for Mr.V.Sasikumar

For R1 : Mr.P.Kottaichamy,
Government Advocate(Crl.side)

For R2 : Mr.K.Govindarajan,
Deputy Solicitor General of India

For Intervenor : Mr.Ajmal Khan,
Senior Counsel
for Mr.A.Balaji

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

PRAYER :-

For Anticipatory Bail in Crime No.260 of 2024 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Sections 102(1)(a), 103(a) of the Trade Marks Act, 1999 and Section 420 IPC in Crime No.260 of 2024 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant is the Director of



CRL OP(MD)No.7844 of 2024

WEB COPY

Sundaravel Match Industries and the said industry is manufacturing the match boxes with Trademark of "27" for the past 50 years. The petitioner's traders are manufacturing match boxes with Trademark of "21", resemblance with the defacto complainant's trade mark and selling substandard matches. Due to the resemblance and substandard matches manufactured by the petitioner, the defacto complainant has sustained heavy losses. Hence, the case.

3.The learned Senior Counsel appearing for the petitioner submits that petitioner's traders are having approved registration certificate for selling match box in the name of "Mashroom 21". The learned Senior Counsel has also produced the registration certificate issued by the Registry, Trade Marks dated 31.05.2002. Accordingly, he prays to grant anticipatory bail to the petitioner.

4.The learned Senior Counsel appearing for the defacto complainant submits that the petitioner is involved in manufacturing match boxes similar to that of the trade mark "27". According to the Senior Counsel, they have obtained the trade mark from the Registry, Trade Mark in the year 1982 for manufacturing match box in the name of "27". The petitioner is preparing match box similar to that of the defacto complainant and due to which the business of the defacto complainant gets affected



CRL OP(MD)No.7844 of 2024

and he suffered a loss to the tune of Rs.6 Crores. Further, he submits that the petitioner is not having any manufacturing unit. The copies of the match box have also been produced before this Court.

5.The learned Government Advocate(Crl.side) for the respondent submits that the investigation in this case is yet to be completed.

6.The present case is registered under Trade Marks Act. Maximum punishment for the said offence is three years. The accused has also placed materials that he is having Trade Mark Certificate for trading match box in the name of "Mashroom 21".

7.Considering the nature of offence and the materials produced by the petitioner, this Court is inclined to grant anticipatory bail to the petitioner.

8.Accordingly, this criminal original petition is allowed and the 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 of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Sivakasi on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate



CRL OP(MD)No.7844 of 2024

No.II, Sivakasi and on further conditions that:

WEB COPY

- i. The petitioner and the sureties shall submit a copy of their Aadhaar Card or any other identity card issued by the Government in proof of their residence address;
- ii. The petitioner shall appear before the respondent police daily at 10.30 am for a period of two weeks. He has to co-operate for the investigation.
- iii. The petitioner shall not misuse the liberty granted to him by indulging in any further offence and shall not tamper with the prosecution witnesses. The petitioner shall be available for the trial as well.
- iv. On violation of any of the above conditions by the petitioner, the respondent police shall move an application for cancellation of the anticipatory bail.

9. The learned Senior Counsel appearing for the defacto complainant submits that the defacto complainant has suffered loss to the tune of Rs.6 Crores, due to the conduct of the petitioner. The investigation agency has to find out as to whether the



CRL OP(MD)No.7844 of 2024

WEB COPY

petitioner is preparing any match box similar to that of the match box of the defacto complainant. The petitioner shall file an affidavit of undertaking before the respondent Police that he will not trade any match box in the name of "27".

10.The certificate issued by the Registry, Trade Mark has been placed before this Court. The entire issue is arisen out of the order passed by the Registrar, Trade Mark Registry. This Court is of the view that the trade mark of the petitioner is similar to the trade mark of the defacto complainant and therefore, this Court suo motu impleads the Registrar, Trade Mark to a party to this Case. Registrar has to summon the petitioner and the defacto complainant and has to take decision, within a period of three months from the date of receipt of a copy of this order.

sd/-
19/06/2024

/ TRUE COPY /

/07/2024
Sub-Assistant Registrar (CS -I/ II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

gns

TO

1.THE JUDICIAL MAGISTRATE NO.II, SIVAKASI



CRL OP(MD)No.7844 of 2024

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
SIVAKASI

3.THE INSPECTOR OF POLICE,
SIVAKASI EAST POLICE STATION,
VIRUDHUNAGAR DISTRICT.

4.THE REGISTRAR,
TRADE MARKS REGISTRY,
MUMBAI.

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

+2 CC to M/s.V.SASI KUMAR, Advocate (SR-6724[I] dated 20/06/2024)

+1 CC to M/s.R.VIDHYA, Advocate (SR-6771[I] dated 21/06/2024)

ORDER
IN
CRL OP(MD) No.7844 of 2024
Date :19/06/2024

RK/GS(18/07/2024) 7P / 9C

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