

Arikrishnan vs State Rep. By on 2 September, 2022

Author: G.Ilangovan

Bench: G.Ilangovan

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 02/09/2022

PRESENT

The Hon'ble Mr.Justice G.ILANGO VAN

Crl.OP(MD)No.12356 of 2022

Arikrishnan : Petitioner/A1

Vs.

State rep. By
Inspector of Police,
Devakottai Taluk Police Station,
Sivagangai District.
(Crime No.75 of 2022) : Respondent/Complainant

For Petitioners : Mr.P.Karthick

For Respondent : Mr.P.Kottai Cghamy
Government Advocate
(Criminal side)

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

PRAYER: -

C-33AB.For Anticipatory Bail in Crime No.75 of 2022
on the file of the Respondent Police.

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

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ORDER :

The Court made the following order:-

The petitioner, who is arrayed as A1 apprehending arrest at the hands of the respondent police for the offences punishable under sections 272, 273, 328 IPC and section 59 of Food Safety and Standards Act, 2006 and sections 7(5) and 20(2) of Cigarette and Other Tobacco Products Act, 2003, in Crime No.75 of 2022 on the file of the respondent police, seeks anticipatory bail

2.The case of the prosecution is that on 28/04/2022, the accused persons alleged to have transported and stored the tobacco, which was banned by the Government in a rented shop, which owned by the de-fact complainant. On getting the information, he has lodged a complaint.

3.Seeking anticipatory bail, this petition has been filed on the ground that on the alleged date and time of occurrence, he was away from the place of occurrence and at that time, he attended his relatives namely Thirumaran, who was detained in Central Prison, Madurai.
<https://www.mhc.tn.gov.in/judis>

4.Heard both sides.

5.The earlier bail application that was filed in CrI.OP(MD)No.10426 of 2022 came to be dismissed by this court, on 24/06/2022 considering the gravity of the offence. At the time of filing of the above petition namely CrI.OP(MD)No.10426 of 2022, a new ground was made to the effect that there was a rental dispute between the owner of the petitioner and the de-facto complainant; only at his instigation, the above said false case has been registered. That contention was disbelieved by this court and that was dismissed by directing the petitioner to surrender before the respondent police and seek regular bail. But without complying the above said order, again, he preferred this petition on the ground that he is having two child at the age of 2 and 3 years and he is not involved in the above said occurrence.

6.Absolutely, there is no change of circumstances have been made out. When the earlier two petitions have been dismissed by this court, considering the gravity of the offence, without change of circumstances, the third petition may not lie.

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7.But however, the learned counsel appearing for the petitioner would rely upon the Bombay High Court decisions in the case of Munjabhau Manchakrao Rokde vs. State of Maharashtra (Anticipatory

Bail Application No. 944 of 2022 batch etc., dated 30th September 2021); Vinod Ramnath Gupta Vs. The State of Maharashtra (Anticipatory Bail Application Stamp Nos.2451 of 2020 another, dated 6th November 2020); and Arun Raosaheb Khot Vs. State of Maharashtra (Anticipatory Bail Application No.226 of 2022, dated 31st January 2020) and contend that the tobacco products cannot be construed as 'poisonous food articles'. So according to him, the Hon'ble Supreme Court also stated that in the anticipatory of the above said order, in Special Leave to Appeal (Crl) Nos.4101 of 2020, dated 26/04/2022. So the arrest of the persons, who are involved in pursuance of the above said judgment has been stayed by the Hon'ble High court. So according to him, this petition is maintainable.

8.But I am unable to agree this line of argument. Considering the gravity and magnitude of the banned articles stored in the godown of the petitioner, the earlier petitions were dismissed. So this ground that has <https://www.mhc.tn.gov.in/judis> been raised in this petition cannot be accepted, since this court has taken a view to the effect that section 328 Cr.P.C in the facts and circumstances of this case will be attracted.

9.In fine, this criminal original petition is dismissed.

(G I J) 02.09.2022 Index:Yes/No Internet:Yes/No er To,

1.The Inspector of Police, Devakottai Taluk Police Station, Sivagangai District.

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

<https://www.mhc.tn.gov.in/judis> G.ILANGOVAN ,J e r 02/09/2022
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