



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

Thursday, the Twenty Sixth day of February Two Thousand Fifteen
PRESENT

THE HON`BLE MR JUSTICE P.N.PRAKASH
CRL OP(MD) No.23210 of 2014

SHAIKATHI ALI @ ALI @
MALAYSIA ALI,

... PETITIONER / ACCUSED No.4

Vs

THE INTELLIGENCE OFFICER
NCB, MADURAI SUB ZONE, MADURAI.

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.R.BABU JAGANATH Advocate

For Respondent : MR.A.P.BALASUBRAMANIAN, Govt. Advocate (Crl. Side)

PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who was arrested and remanded to judicial custody on 03.04.2013 for the alleged offences punishable under Sections 9(a) r/w 25 (a), 21, 27(a), 28 and 29 of NDPS Act, 1985 in Crime No.48/1/01/2013 NCB-MDU on the file of the respondent police, seeks anticipatory bail.

2. Heard the learned counsel for the petitioner and the learned Special Public Prosecutor for NCB Cases.

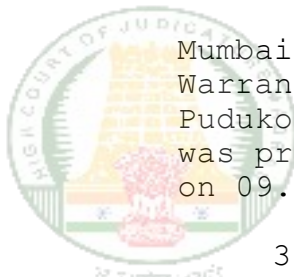
3. This is second anticipatory bail petition and the first anticipatory bail petitions in Crl.O.P.(MD) Nos.19620 and 21269 of 2013 were dismissed by this Court by a well considered common order dated 19.02.2014.

4. The case of the prosecution is that this petitioner is involved in a conspiracy to illegally manufacture methamphetamine, a psychotropic substance banned under the NDPS Act.

5. Respondent Police have filed a detailed counter in which they have stated as follows:

"1. Based on a specific information received, a team of NCB offices along with a lady Surveillance Assistant, proceeded to a house with NO.4/75 C, New NO.791, Vairavapuram, Sirikudalpatti, Tirupattur-Puddukuttai Road, Sivagangai Dist. TN on 22.03.2013 and in the presence of two independent witnesses introduced themselves to the occupants of the house and conducted a thorough search to bust a clandestine methamphetamine laboratory which resulted in the recovery and seizure of 5.77 kg crystalline substance believed to be Methamphetamine, a psychotropic substance covered under the NDPS Act, 1985, as amended, along with a plethora of other chemicals used in the production cycle, other material evidence and documents under Mahazar dated 22/23.03.2013. The investigation revealed the involvement of the petitioner in the crime.

<https://hcservices.ecourts.gov.in/hcservices/> It is submitted that the petitioner was arrested in Mumbai on 03.04.2013 along with A-5, Naushad Attar, and produced before the Chief Metropolitan Magistrate, Esplanade, Greater



Mumbai on 04.04.2013. The CMM remanded them and granted Transit Warrant to produce them before the Spl.Court for NDPS Act Cases, Pudukottai on or before 10.04.2013. Accordingly, the petitioner was produced before the Spl.Court for NDPS Act Cases, Pudukottai on 09.04.2013 and placed under Judicial Custody.

3. It is submitted that the petitioner admitted his involvement in the crime in his voluntary statement recorded u/s 67 of the NDPS Act. The allegations made by the petitioner in the bail petition are denied as false.

4. It is submitted that, as per the voluntary statement of the petitioner / accused, A6 in the instant case, Rafiudeen @ Rafiq, introduced him to the two Iranians (A-1 & A-2) and further informed him that they (Iranians) had come to India to illegally manufacture Methamphetamine from the Ephedrine which the petitioner/accused was expected to provide and ultimately did provide. It is only the petitioner who procured and arranged the raw materials needed for the manufacture of the contraband under seizure."

6. Learned counsel for the petitioner submitted that this petitioner has been in incarceration since the time of his arrest and that two of the accused are still absconding. Investigation has been completed and the complaint has been filed.

7. It is seen that two Iranians and others had established an illegal factory for the manufacture of methamphetamine and it was this petitioner, who has been illegally supplying Ephedrine, which is a controlled substance and is a raw material used for the manufacture of methamphetamine. Even in the statement recorded under Section 67 of the NDPS Act, this petitioner has explained his role in the conspiracy to manufacture methamphetamine illegally.

8. In the light of the overwhelming materials implicating this petitioner in the offence, the petitioner will not be entitled to be released on bail, as he does not pass the test laid down by Section 37 of the NDPS Act. Further, this is second anticipatory bail petition and there is no change in fact situation.

9. Learned counsel for the petitioner further submitted that in this case, two of the accused are absconding and no progress has been made so far by the Trial Court.

10. If that is so, the Trial Court is directed to split up the case as against the absconding accused and proceed with the trial of the case in accordance with law.

11. In the result, this Criminal Original Petition is dismissed.

sd/-
26/02/2015

/ TRUE COPY /



TO

1 THE INTELLIGENCE OFFICER
NCB, MADURAI SUB ZONE, MADURAI.

2 THE SUPERINTENDENT
CENTRAL PRISON, PUZHAL, CHENNAI.

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

Sm:03.03.2015:3P/4C:

ORDER IN
CRL OP(MD) No.23210 of 2014
Date :26/02/2015