



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

Friday, the Seventeenth day of April Two Thousand Fifteen
PRESENT

The Hon`ble Mr Justice K.KALYANASUNDARAM

CRL OP(MD) No.4634 of 2015

SAKTHIVEL

... PETITIONER/SOLE ACCUSED

Vs

STATE REP.BY

THE INSPECTOR OF POLICE

NIB CID, THENI DISTRICT,

(CRIME NO. 106 OF 2014)

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.K.J.ASSOCIATES Advocate

For Respondent : MR.K.V.RAJARAJAN, Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

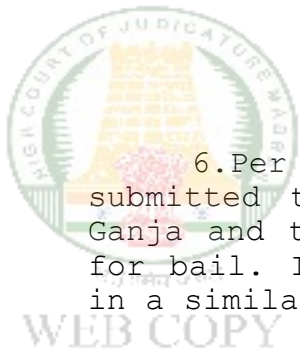
The petitioner is the sole accused and he was arrested on 24.07.2014 and remanded to judicial custody for the alleged offence punishable under section 8(C) r/w 20(b)(ii)(B) of NDPS Act, 1985, in Crime No.106 of 2014 on the file of the respondent police and hence, seeks bail.

2.The case of the prosecution is that on 24.07.2014, the respondent police received an information and on that basis, the respondent conducted search at Annanji Villaku, Theni-Periyakulam Main Road and they found two white colour gunny bags and a person nearby standing and when enquired, he gave a confession that the bags belonged to him, which contains 40 kgs of Ganja.

3.The learned counsel for the petitioner submitted that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution.

4.It is further submitted that as per the case of the prosecution, the contraband was purchased by the petitioner in Vijayawada and it was brought through Chennai to the place of occurrence by bus. It is further submitted that the occurrence said to have taken place on 24.07.2014, but the petitioner had appeared before the Court of Sessions, Theni on 23.07.2014 in connection with a case in S.C.No.84 of 2014 and therefore, it is humanly impossibility to go to Vijayawada for the purchase of the contraband.

5.The learned counsel further submitted that admittedly, the contraband was seized in the bus stand and the conscious possession of the petitioner was also not established by the respondent and that the respondent had produced the contraband before the trial Court only on 08.08.2014 i.e., after 14 days of the alleged recovery, which creates a serious doubt over the case of the prosecution. In support of his contention, the learned counsel has relied on the order passed by this Court in Crl.O.P (MD) No.18641 of 2014, dated 12.11.2014.



6.Per contra, the learned Government Advocate (Criminal side) submitted that this petitioner was found in possession of 40 kgs of Ganja and therefore, as per section 37 of NDPS Act, he is not entitled for bail. It is further submitted that the petitioner has not involved in a similar case of this nature.

7.In CrI.O.P(MD)No.18641 of 2014, dated 12.11.2014, which was relied upon by the learned counsel for the petitioner, the respondent police had recovered 24 kgs of Ganja from the accused and the contraband was produced after a lapse of two weeks and in that above case, this court held that section 37 of NDPS Act is not applicable to the facts of the case, because there is a serious doubt over the case of the prosecution.

8.Considering the order passed by this court in CrI.O.P(MD)No.18641 of 2014, dated 12.11.2014 and the facts and circumstances of the present case, this court is of the considered view that the petitioner is entitled for bail with certain conditions.

9.Accordingly, the petitioner is ordered to be released on bail, on his executing a personal bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Special District and Sessions Judge for E.C. Act and NDPS Cases, Madurai and on further condition that the petitioner shall report before the respondent police daily at 10.00 a.m. and 05.00 p.m. until further orders.

sd/-
17/04/2015

/ TRUE COPY /

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

TO

1. THE SPECIAL DISTRICT AND SESSIONS JUDGE
FOR E.C. ACT AND NDPS CASES, MADURAI
- 2 THE INSPECTOR OF POLICE
NIB CID, THENI DISTRICT.
- 3 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.K.J.ASSOCIATES Advocate SR.No.19612

ORDER
IN
CRL OP(MD) No.4634 of 2015
Date :17/04/2015

PA/17.04.2015/2P/6C