



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

Thursday, the Thirty First day of March Two Thousand Sixteen

PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP (MD) Nos.3165 & 3166 of 2016

SAKTHI ALIAS MANIKOONDU SAKTHI
ALIAS SAKTHIDHARAN

..PETITIONER/ACCUSED No.1
IN CRL.OP (MD) No.3165/2016

1 RAJKUMAR
2 ELAYARAJA

..PETITIONER/ACCUSED Nos.2 & 3
IN CRL.OP (MD) No.3166/2016

Vs.

STATE REP.BY
THE INSPECTOR OF POLICE
KUMBAKONAM WEST POLICE STATION,
THANJAVUR DISTRICT.
CR.NO.556 OF 2015 RESPECTIVELY

..RESPONDENT/COMPLAINANT
IN BOTH THE PETITIONS

For Petitioner : M/S R.MAHESWARAN Advocate in both the petitions

For Respondent : Mr.A.P.BALASUBRAMANI, Government Advocate (Crl.Side)
in both the petitions

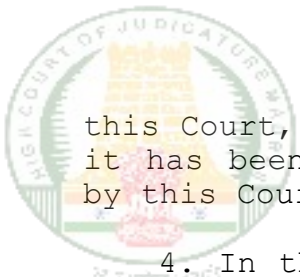
PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners, who were arrested and remanded to judicial custody on 24.09.2015 for the offences punishable under Sections 8(c) r/w 22 © of NDPS Act in Crime No.556 of 2015 on the file of the respondent police, seek bail.

2. Heard Mr.R.Maheswaran, learned counsel appearing for the petitioners and Mr.A.P.Balasubramani, learned Government Advocate (Criminal Side) appearing for the State.

3. It is seen that the petitioners were arrested on 24.09.2015 for alleged possession of 750 gms of Diazepam, which is a psychotropic substance under the NDPS Act. Since the quantity of seizure is 750 gms, the same falls within commercial quantity and therefore, under Section 36(A)(4) of the NDPS Act, final report should be filed within 180 days from the date of arrest, failing which, the accused will be entitled to statutory bail under Section 167(2) Cr.P.C. These bail applications were filed before this Court on 19.02.2016 and when the matters came up for hearing on 24.03.2016, 182 days had lapsed. The learned Government Advocate, on instructions, submitted that the police have filed the final report and therefore, this Court adjourned the cases to today for verification. Today, on verification, it is found that the final report has been filed only on 30.03.2016 and under those circumstances, for indefeasible right of the accused cannot be defeated. Under such circumstances, as on 24.03.2016, when the bail applications were heard by



this Court, final report was not filed and in order to cover up the case, it has been hurriedly filed on 30.03.2016, which cannot be countenanced by this Court.

4. In the result, this Court is of the view that it is a fit case to grant bail to the petitioners. Accordingly, the petitioners are ordered to be released on bail, subject to the following conditions:

(i) the petitioners shall execute a 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 Additional District and Sessions Judge, Special Judge under Ect Act cases, Thanjavur.

[ii] the petitioners shall report before the respondent police everyday at 6.30 p.m. until further orders.

[iii] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[iv] the petitioners shall not abscond either during investigation or trial.

[v] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

[vi] The Inspector of Police concerned is directed to send compliance report to the office of the learned Government Advocate (Crl. Side) as to whether the petitioners are complying with the condition or not.

sd/-

31/03/2016

/ TRUE COPY /

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

TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
SPECIAL JUDGE UNDER ECT ACT CASES, THANJAVUR.

2 -do-thro'THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
THANJAVUR AT KUMBAKONAM.

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

4 THE INSPECTOR OF POLICE, KUMBAKONAM WEST POLICE STATION,
THANJAVUR DISTRICT.

5 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.

+2. CC to M/S R.MAHESWARAN Advocate SR.No.18014 & 18015

ORDER IN

CRL OP(MD)Nos.3165 & 3166 of 2016

Date :31/03/2016

PBK/AAL-MPA/AR-I 31/03/2016 ::2P-8C::