



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

Wednesday, the Nineteenth day of April Two Thousand Seventeen

PRESENT

The Hon`ble Dr.Justice G.JAYACHANDRAN

CRL OP(MD) No.2514 of 2017

BASKAR

... PETITIONER/SOLE ACCUSED

Vs

STATE: REP BY
THE INSPECTOR OF POLICE,
MAYILADUTHURAI POLICE STATION,
NAGAPATTINAM DISTRICT.
(CR.NO.37 OF 2017)

... RESPONDENT/ COMPLAINANT

For Petitioner : M/S.K. KUMRAVEL Advocate

For Respondent : M/S.K.V.RAJARAJAN, Govt. Advocate (Crl. Side)

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

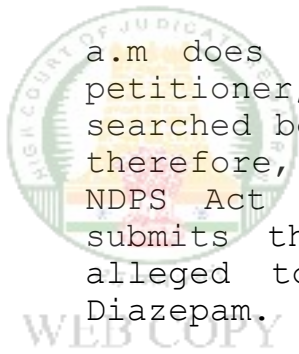
ORDER : The Court Made the following order :-

The petitioner/sole accused who was arrested and remanded to judicial custody on 13.01.2017 for the offences under Section 8(C) r/w 22(C) of the NDPS Act in Crime No.37 of 2017 on the file of the respondent/Police, seeks bail.

2.The case of the prosecution is that based on the secret information, the petitioner was intercepted while alighting from the bus at Mayiladuthurai, Uluthukkuppai Bus stand and on search of his body, 540 grams of Diazepam which is a psychotropic substance prohibited under the NDPS Act, was seized from the petitioner.

3.The case of the petitioner is that the Police has falsely implicated him in this case and the falsehood could be clearly seen from the FIR, Mahazar, Arrest Card and Arrest Memo.

4.It is contended by the counsel for the petitioner that the petitioner was alleged to have been arrested by the respondent/Police on 13.01.2017 at 9.10 a.m. Whereas, the FIR was registered only at 11.20 a.m. The Arrest Card and Arrest Memo, Confession Statement of the accused and Seizure Mahazar alleged to have been prepared at the place of occurrence itself contain the crime number which could not have happened, if really the arrest and seizure was done at 9.10 a.m. Further, the counsel for the petitioner contended that the FIR dated 13.01.2017 recorded at 11.20



a.m does not contain whether before search of the body of the petitioner, the petitioner was informed about his right to be searched before the Gazetted Officer or the Judicial Magistrate and therefore, contending that there is a violation of Section 50 of the NDPS Act while conducting the search. So the learned counsel submits that the petitioner is entitled for bail though he is alleged to have been in possession of commercial quantity of Diazepam.

5. Section 37 of NDPS Act imposes twin conditions on Courts before granting bail in respect of the offenders involved in trafficking of narcotic and psychotropic substances in commercial quantity. Those twin tests are, (i) the Public Prosecutor should be given opportunity to oppose the application and (ii) when the Public Prosecutor opposes the application, the Court should be satisfied that there are reasonable ground for believing that the petitioner is not guilty of such offence and that he is not likely to commit any offence while on bail.

6. In the present case, the learned Government Advocate (Criminal Side) filed counter affidavit, stating that the psychotropic substance seized from the petitioner is over and above the commercial quantity and there are materials to show that the petitioner knowingly involved in the trafficking of psychotropic substance.

7. Perusal of the CD file indicates that contraband has been seized from the possession of the petitioner on personal search. There is no indication that the petitioner was informed about his right to be examined before the Gazetted Officer or Judicial Magistrate before carrying out the search.

8. In view of the above fact, this Court is inclined to grant bail to the petitioner, subject to the following conditions:-

(i) The petitioner 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 for E.C. Act Cases, Thanjavur.

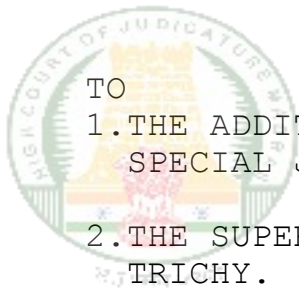
(ii) The petitioner shall report before the respondent-police daily at 10.30 a.m. until further orders.

(iii) The petitioner shall not involve in any offence in violation of Section 37 of the NDPS Act.

sd/-
19/04/2017

/ 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 FOR E.C. ACT CASES, THANJAVUR.

2. THE SUPERINTENDENT, CENTRAL PRISON,
TRICHY.

3. THE INSPECTOR OF POLICE,
MAYILADUTHURAI POLICE STATION,
NAGAPATTINAM DISTRICT.

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

+1. CC to M/S.K. KUMRAVEL Advocate SR.No.20501

ORDER

IN

CRL OP (MD) No.2514 of 2017

Date : 19/04/2017

MS/PM.PN/SAR.3/19.04.2017/3P.6C