



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

Monday, the Fourth day of December Two Thousand Seventeen

PRESENT

The Hon`ble Mrs.Justice J.NISHA BANU

CRL OP (MD) No.9426 of 2017

A.ANTONY ROSARY

... PETITIONER / ACCUSED NO.2

Vs

THE SUPERINTENDENT OF CUSTOMS
SPECIAL INTELLIGENCE AND INVESTIGATION
BRANCH, CUSTOMS HOUSE,
THOOTHUKUDI
(CRIME NO.40/2016)

... RESPONDENT/ COMPLAINANT

For Petitioner : M/S.S.PRASANTH Advocate

For Respondent : MR.C.ARUL VADIVEL @ SEKAR,
SPECIAL PUBLIC PROSCUTOR FOR CUSTOMS

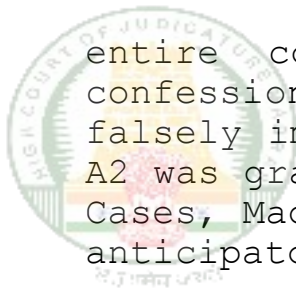
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner/1st accused in Crime No.40 of 2016 on the file of the respondent police, apprehending arrest at the hands of the respondent for the alleged offence punishable under Sections 8(c), 21 and 23 read with Sections 28 and 29 of the NDPS Act, 1985, seeks anticipatory bail.

2.The case of the prosecution is that on 14.03.2016, on an information given by the Assistant Commandant, CISF, VOC Tuticorin Port Trust, Tuticorin, the Customs officials examined the bag of this petitioner and seized 1918 grams of Ganja oil tetrahydrocannabinol. The Assistant Commandant, CISF, VOC Tuticorin Port Trust, Tuticorin, informed the officers of SIIB, Customs House, Tuticorin that the petitioner was caught by CISF Inspector while he was trying to enter the port area with two polythene packages containing liquid item in greenish black colour weighing approximately 2000 grams by concealing in hand bag and that he was not able to give satisfactory reply for carrying the item.

3.The case of the petitioner is that he never committed any such offence as alleged by the prosecution and that the present petitioner was not at all in the scene of occurrence and the



entire contraband was seized from A2 and based on the confession statement obtained from A2, this petitioner has been falsely implicated in this case. It is further contended that A2 was granted statutory bail by the Special Court for NDPS Act Cases, Madurai, on 28.09.2016 and therefore, prays for grant of anticipatory bail.

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4. Heard the learned counsel for the parties and perused the materials available on record.

5. The respondent filed objection opposing the petition for anticipatory bail stating that the respondent issued summons to the petitioner under Section 67 of the NDPS Act on 05.04.2016 directing him to appear for interrogation on 07.04.2016 and the same was received by his wife on 05.04.2016, but the petitioner did not turn up. The voluntary statement of A2 would clearly reveal the involvement and role of the petitioner in the crime. It is further contended that A2 was granted statutory bail by the Special Court for NDPS Act Cases, Madurai, on 28.09.2016 since the complaint was not filed within 180 days and hence, release of A2 cannot be taken into account for granting anticipatory bail to this petitioner.

6. It is reported by the learned Special Public Prosecutor Mr. Arul Vadivel @ Sekar that as per the confession of A2, the petitioner requested him to hand over the packages to a person in the vessel 'MV Stella Beauty' bound to Maldives. The petitioner is the main accused and the chemical analyst report proves that the contraband is tetrahydrocannabinol, a narcotic drug comes under the Serial No. 150 of the Schedule. As the offence committed by the petitioner is a heinous one and it will affect the entire society, he prays for dismissal of this petition.

7. Considering the gravity of offence and also considering the fact that the investigation is pending, this Court is not inclined to grant anticipatory bail to the petitioner at this stage. Accordingly, this Criminal Original Petition is dismissed.

sd/-

04/12/2017

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



BALA
TO

1 THE SUPERINTENDENT OF CUSTOMS
SPECIAL INTELLIGENCE AND INVESTIGATION BRANCH,
CUSTOMS HOUSE, THOOTHUKUDI

2 THE SPECIAL PUBLIC PROSECUTOR FOR CUSTOMS
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.S.PRASANTH Advocate SR.No.35487
+1cc to MR.C.ARUL VADIVEL @ SEKAR, Advocate in SR.No.35459

GJM/RR/SAR-3-6.12.2017-3P-5C

ORDER
IN
CRL OP (MD) No.9426 of 2017
Date :04/12/2017