



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

Friday, the Second day of February Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP(MD) No.1468 of 2018

VIJAY @ KURUVI VIJAI

... PETITIONER / ACCUSED NO.6

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
ANNA NAGAR POLICE STATION, MADURAI CITY,
(CRIME NO.1340 OF 2017)

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.G.RAJAGURU Advocate

For Respondent :MR.K.SUYAMBULINGA BHARATHI Govt. Advocate (Crl.Side)

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

ORDER : The Court Made the following order :-

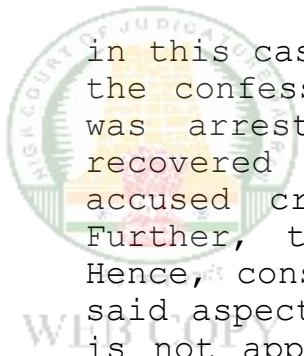
The petitioner / accused no.6, who was arrested on 24.10.2017 for the offences punishable under Sections 8(c), r/w 20(b)(ii)(c), 27(A) and 29(1) of NDPS Act, in Crime No.1340 of 2017, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 23.07.2017, when the respondent police conducted a raid, they intercepted the petitioner and other accused, who is carrying a bag containing 22.00 kgs of ganja. Thereafter, a case has been registered against the petitioner and he was arrested and remanded to judicial custody.

3.The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has not committed any offence. He further submitted that based on the confession statement of accused no.3, the petitioner was arrested by the respondent police.

4.The learned Government Advocate (Criminal side) appearing for the respondent police submitted that the petitioner is having four previous cases.

5.Considering the submissions made on either side, it seems that a case has been registered against the petitioner for the offences under Sections 8(c), r/w 20(b)(ii)(c), 27(A) and 29(1) of NDPS Act, . The petitioner is arrayed as accused no.6 in this case. It is alleged that during the time of occurrence, the second accused



in this case alone possessed with 22 kilograms of ganja and based on the confession statement given by the accused no.3, the petitioner was arrested by the respondent police and the contraband was recovered by the investigation agency. So, the arrest of the accused creates a serious doubt in the case of prosecution. Further, the petitioner is in judicial custody from 24.10.2017. Hence, considering the period of incarceration and the other above said aspects, this Court is of the view that Section 37 of NDPS Act is not applicable to the present case, Therefore, this Court is inclined to grant bail to the petitioner. Accordingly, **the petitioner is ordered to be released on bail**, subject to the following conditions:

(i) the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties, each for a like sum to the satisfaction of the learned Principal Special Court for EC & NDPS Act Court, Madurai.

(ii) the petitioner is directed to appear before the respondent police daily at 10.30 a.m. and 5.00 p.m., until further orders;

(iii) the petitioner shall not tamper with the evidence or witness either during investigation or trial;

(iv) the petitioner shall not abscond either during investigation or trial;

(v) on breach of any of the aforesaid conditions, the Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the 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]**.

sd/-

02/02/2018

/ TRUE COPY /

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

TO

- 1 THE PRINCIPAL SPECIAL JUDGE FOR EC & NDPS ACT COURT, MADURAI.
- 2 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
- 3 THE INSPECTOR OF POLICE
ANNA NAGAR POLICE STATION, MADURAI CITY.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.G.RAJAGURU Advocate SR.No.1836

ORDER IN

CRL OP(MD) No.1468 of 2018

Date : 02/02/2018