



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

Thursday, the Eighth day of March Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP(MD) No.2418 of 2018

TAMILSELVI

... PETITIONER / ACCUSED

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
CHECKANURANI POLICE STATION,
MADURAI DISTRICT,
IN CRIME NO.924 OF 2017

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.GOPALAKRISHNA LAXMANA RAJA, Senior Counsel for
Mr.T.SENTHIL KUMAR Advocate

For Respondent : Mr.A.ROBINSON, Govt. Advocate (Crl. Side)

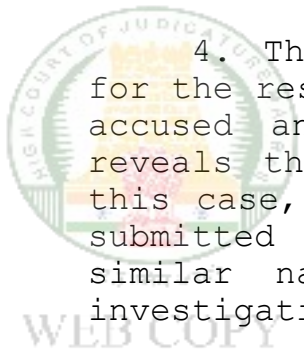
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner/Accused No.1, who apprehends arrest at the hands of the respondent police for the offence punishable under Sections 8 (c) and 20(b) (ii) (c) of Narcotic Drugs and Psychotropic Substances Act, 1985, in Crime No.924 of 2017, seeks anticipatory bail.

2.The case of the prosecution is that on 25.12.2017, after receiving the secret information, the respondent police went to K.Puliangulam Harijan Graveyard and at that time, they found A2 and A3 in this case were standing with bag. When the police party intercepted the accused, they were found in possession of 20 Kgs (each carries 10 kgs) of Ganja, they were arrested by the respondent police and the case has been registered for the above said offence. Thereafter, based on the confession statement given by the above said accused, this petitioner has been implicated in this case and further 50 Kgs of Ganja were seized from A2's house.

3. The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and she has not committed any offence as alleged by the prosecution. He further submitted that only based on the confession of the co-accused, the petitioner has been implicated in this case. Hence, he prays for grant of anticipatory bail to the petitioner.



4. The learned Government Advocate (Criminal Side) appearing for the respondent submitted that the contraband was seized from the accused and the confession statement given by the co-accused reveals that the petitioner is the main accused, who involved in this case, hence, she has been implicated in this case. He further submitted that the petitioner is having 4 previous cases in the similar nature of offence. According to the prosecution, the investigation is in progress.

5. As per the case of the prosecution, the other accused, who are arrayed as A2 & A3 in this case were arrested and remanded to judicial custody on 25.12.2017 at about 08.00 hours and thereafter, 20 Kgms of Ganja were recovered. Now, this petitioner is added as an accused as per the confession given by the co-accused in this case. During the time of arrest of the co-accused, the respondent police recovered 50 kgms of Ganja, after recording the confession statement under Section 27 of the Evidence Act. It is true that though the respondent police recorded confession under the Evidence Act, it can be used for the limited purpose. Accordingly, in this case, the contraband materials was not recovered from this petitioner. However, the learned Government Advocate (Criminal side) made representation that the very same petitioner is having 4 previous cases in similar nature, which are all pending under investigation. In the above circumstances, the petitioner herein filed this application seeking anticipatory bail.

6. Now, considering the submission made by the learned counsels appearing for either side, it is true that the confession of the co-accused may not be relevant for holding the crime against this petitioner. As of now, the contraband materials possessed by the other accused are all recovered, the contraband, which were possessed by the other accused come under the category of commercial quantity, as far as this petitioner is concerned, she filed this application seeking anticipatory bail. In general, the Court would grant or refuse anticipatory bail, after taking into considering the following factors, namely;

" (i) the nature and gravity of the accusation;

(ii) the antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;

(iii) the possibility of the applicant to flee from justice; and

(iv) where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested;"

Now applying the above said principles with the case on hand, no doubt, the nature and gravity of offence is heinous one, considering the antecedents of the petitioner, it is an admitted fact that the petitioner is having four previous cases and all the cases are registered for the similar type of offences as mentioned in this case. Thereby, if these type of petitioners are released on bail, there may be a possibility for flee from justice. Accordingly,



considering the facts and circumstances of the case, this Court is not inclined to grant anticipatory bail to the petitioner. Accordingly, this Criminal Original Petition is dismissed.

sd/-
08/03/2018

/ TRUE COPY /

WEB COPY

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

TO

- 1 THE INSPECTOR OF POLICE
CHECKANURANI POLICE STATION,
MADURAI DISTRICT,
- 2 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

+1. CC to M/S.T.SENTHIL KUMAR Advocate SR.No.3696

PJL
JAM/13/03/2018/ CSL-RR / SAR 2 / 3P-4C

ORDER
IN
CRL OP (MD) No.2418 of 2018
Date :08/03/2018