



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.2480 of 2018

TAMILSELVI

... PETITIONER / ACCUSED No.1

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE,
NAGAMALLAI PUDUKOTTAI POLICE STATION,
MADURAI DISTRICT.
IN CRIME NO.13 OF 2018.

... RESPONDENT / COMPLAINANT

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

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

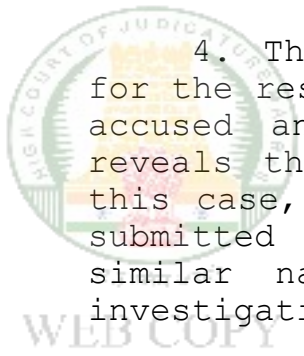
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

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.13 of 2018, seeks anticipatory bail.

2.The case of the prosecution is that on 06.01.2018, after receiving the secret information, the respondent police went to Alampatti M.G.R.Nagar Railway Gate and while they were conducting search, they found one Andi and 2 others, namely, Irullappan and Madathi were in possession of 63 Kgs (each carries 21 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.

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. It is alleged that the petitioner herein making arrangements for purchasing Ganja from Andhra Pradesh and selling the same in Tamil Nadu with the help of the other accused in this case. Now, as per the case of the prosecution, the three other accused, who are arrayed as A2 to A5 in this case were arrested and remanded to judicial custody on 06.01.2018 at about 13.00 hours and thereafter, 21 Kgms of Ganja from each of the accused were recovered. Now, this petitioner is added as an accused as per the confession given by the co-accused in this case, for which the learned counsel appearing for the petitioner made a submission that the confession given by the co-accused, which was recorded by the respondent police is not relevant to hold the case of the prosecution. Further, he added that with regard to the previous cases, which was instituted against this petitioner, the petitioner has been falsely implicated as accused in all the cases. On the other hand, the learned Government Advocate (Criminal side) filed the counter and made a submission as it is the petitioner, who is the master mind for the offence committed by the other accused in this case. Previously, four cases were registered against this petitioner for the similar type of offence, in which one case was disposed of, another two cases were under investigation.

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;

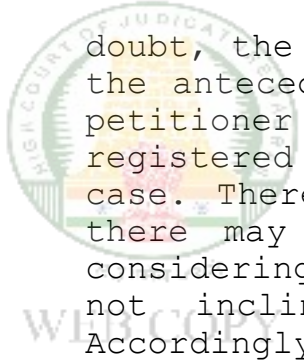
" (i) the nature and gravity of the accusation;

(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

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

TO

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

pjl
JAM/13/03/2018/ CSL-RR / SAR 2 / 3p-3c

ORDER
IN
CRL OP(MD) No.2480 of 2018
Date :08/03/2018