



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

Tuesday, the Thirtieth day of January Two Thousand Eighteen
PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP(MD) No.322 of 2018

1 RANI
2 ESWARI

... PETITIONERS/ ACCUSED-1 & 2

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
VELIPPALAYAM POLICE STATION,
NAGAPATTINAM DISTRICT.
(CRIME NO.416/2017)

... RESPONDENT / COMPLAINANT

For Petitioners: M/S.K.KUMARAVEL, Advocate
For Respondent : M/S.K.SUYAMBULINGA BHARTHI, Govt.Advocate(Crl.Side)

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

ORDER : The Court Made the following order :-

Reserved on : 23.01.2018
Delivered on : 30.01.2018

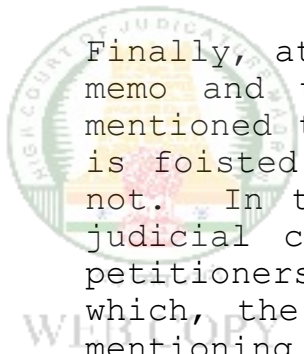
The petitioners/Accused Nos.1 and 2, who were arrested and remanded to judicial custody on 05.12.2017 for the offences punishable under Section 8(c) r/w. 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985, in Crime No.416 of 2017 on the file of the respondent police, seek bail.

2.The case of the prosecution is that the petitioners along with two other accused have been found in possession of 20.200 Kgs of Ganja. Hence, a case has been registered for the offences stated above.

3.The learned counsel appearing for the petitioners submitted that the petitioners are innocents and they have not committed any offence as alleged and they have been falsely implicated in this case and prays for bail.

4.The learned Government Advocate (Criminal side) submitted that on 04.12.2017, on the basis of secret information, the respondent police conducted a search in the premises of the petitioners and seized 20.200 Kgs of Ganja. According to him, the petitioners have also involved various similar cases and therefore, he prayed for dismissal of the Criminal Original Petition.

5.The only ground raised by the petitioner is, as per the case of prosecution, the petitioner was arrested on 05.12.2017 at 16.10 hours and thereafter, Seizure Mahazar was prepared at 17.30 hours.



Finally, at 18.30 hours, the FIR was registered. But in the arrest memo and the Seizure Mahazar prepared by the police, they have mentioned the crime number, which creates a doubt whether the case is foisted against the petitioners as stated by the prosecution or not. In this case, the petitioners were arrested and remanded to judicial custody on 05.12.2017. During the time of search, the petitioners were found in possession of 20.200 Kgs of Ganja, for which, the case has been registered against them. With regard to mentioning of crime number in the arrest memo and the Seizure Mahazar, the learned Government Advocate (Criminal side) does not say anything. This aspect creates serious suspicion over the case of prosecution and hence, this Court is inclined to grant bail to the petitioners. Accordingly, the petitioners are ordered to be released on bail subject to the following conditions:

(i) Each of the petitioners 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 Additional District and Sessions Judge/Special Judge under EC Act cases, Thanjavur;

(ii) the petitioners are directed to appear before the respondent police daily at 10.30 a.m. until further orders;

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

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

(v) On breach of any of the aforesaid conditions, the Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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/-
30/01/2018

/ TRUE COPY /

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

TO

1. ADDITIONAL DISTRICT AND SESSIONS JUDGE/
SPECIAL JUDGE UNDER EC ACT CASES, THANJAVUR.
2. THE SUPERINTENDENT, CENTRAL JAIL, TRICHY.
3. THE INSPECTOR OF POLICE,
VELIPPALAYAM POLICE STATION, NAGAPATTINAM DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. CC to M/S.K.KUMARAVEL Advocate SR.No.1581

ORDER IN
CRL OP(MD) No.322 of 2018
Date : 30/01/2018