



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

Tuesday, the Twenty Seventh day of March Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP (MD) No.4464 of 2018

CHINNASAMY @ KARUVAYAN ... PETITIONER/ACCUSED NO.1

Vs

STATE REP.BY ITS,
THE INSPECTOR OF POLICE
USILAMPATTI TALUK POLICE STATION,
MADURAI DISTRICT
(CRIME NO.289 OF 2017) ... RESPONDENT/ COMPLAINANT

For Petitioner : M/S.M.JEGADEESH PANDIAN Advocate

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

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

ORDER : The Court Made the following order :-

The petitioner, who is arrayed as accused No.1, was arrested and remanded to judicial custody on 05.09.2017 for the offences punishable under Sections 8(c) r/w.20(b)(ii)(C) and 25 of NDPS Act, 1985 in Crime No.289 of 2017, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner and other accused are said to have found in possession of 32 Kgs of Ganja. Thus, on complaint, a case has been registered against the petitioner for the above said offences.

3.The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he did not commit any offence as alleged by the prosecution and his name has been falsely implicated in this case. He further submitted that the petitioner is in judicial custody from 05.09.2017.

4.The learned Government Advocate (Criminal Side) appearing for the State submitted that the contraband materials have been recovered and the investigation is pending.



5. The submissions made by the learned counsel appearing on either side are considered.

6. It is alleged, during the time of occurrence, the petitioner herein was found in possession of 32 Kgs of Ganja. As of now, the said contraband materials were recovered. As per the submission made by the learned counsel appearing for the petitioner, the respondent Police registered a case at 11.00 hours on 05.09.2017. On the other hand, the arrest card and arrest memo were prepared by the respondent Police at 7.15 hours, on the same date, in which, the Crime Number has been mentioned by the respondent Police. Of course, as per the case of prosecution, after the arrest, the petitioner was brought to the police station and thereafter, on 05.09.2017 at 11.00 hours, case has been registered. In the above circumstances, it is not at all possible for the respondent Police to mention the Crime Number in the Arrest Card and Arrest Memo, which was preferred at 7.15 hours. So, the above said fact creates a suspicion over the case of prosecution. Considering the facts and circumstances of the case, this Court came to the conclusion that further custodial interrogation of the petitioner may not be necessary for completing the investigation. Hence, this Court is inclined to enlarge the petitioner on bail subject to some stringent conditions. 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 and NDPS Act Cases, Madurai.

(ii) the petitioner shall appear before the respondent Police daily at 10.00 a.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/-

27/03/2018

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trp
TO

1 THE PRINCIPAL SPECIAL JUDGE
FOR EC AND NDPS ACT CASES, MADURAI

2 THE INSPECTOR OF POLICE
USILAMPATTI TALUK POLICE STATION, MADURAI DISTRICT.

3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

4 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI

+1. CC to M/S.M.JEGADEESH PANDIAN Advocate SR.No.4918

GJM/MM/PN/SAR-I-27.3.18-3P-6C

ORDER

IN

CRL OP(MD) No.4464 of 2018

Date :27/03/2018