



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

Thursday, the Seventeenth day of May Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice M.S.RAMESH

CRL OP (MD) No.8351 of 2018

MURUGAN @ KEERIPATTI MURUGAN

... PETITIONER/ACCUSED No.1

Vs

STATE THROUGH,
THE SUB INSPECTOR OF POLICE
KADAMALAIKUNDU POLICE STATION,
THENI DISTRICT.
IN CRIME NO 111 OF 2017

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.B.VISWANATHAN, Advocate

For Respondent : MR.V.NEELAKANDAN, Additional Public Prosecutor

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

ORDER : The Court Made the following order :-

The petitioner is alleged to have committed an offence under Sections 8(c), 20(b)(ii)(C), 27 (A) of the Narcotic Drugs & Psychotropic Substances Act, 1985, [hereinafter referred to as "the Act"] and Section 307 IPC, in Crime No.111 of 2017.

2.When he had moved the trial Court seeking for bail, the same came to be dismissed on the ground that there are six previous cases pending against him and that long period of detention and slow progress in the investigation at that point of time, cannot be a ground to grant bail.

3.Admittedly, the petitioner is in detention for more than one year.

4.The learned Additional Public Prosecutor submitted that there are previous cases pending against him. In view of Section 37 of the Act, he shall not be let out on bail, since the quantity with which, he was found in possession is a commercial quantity. He further submitted that a charge sheet has already been filed and the same has been taken on file in C.C.No.302 of 2017, on the file of the jurisdictional Court.



5.It is seen that out of six cases, the petitioner has been acquitted in three cases. It is also brought to my notice that among the six accused, five of the accused have already been released on bail in connection with the same occurrence.

WEB COPY

6.It cannot be said that there is a total ban under Section 37 of the Act for grant of bail to a person, who is in possession of commercial quantity of contraband. What is required under Section 37 of the Act is that the Court, while considering an application for bail of an accused who is in possession of commercial quantity, should consider whether the Public Prosecutor has been given an opportunity to oppose the application and on such opposition, the Court must satisfy itself that there are reasonable grounds for believing that the person is not guilty of such an offence and that he is not likely to commit any offence.

7.In the instant case, all the co-accused have been released on bail and as such, I am unable to comprehend as to why the petitioner alone has to be singled out and retained in custody. The respondent should also be cautious of the fact that the petitioner is languishing in prison for more than one year.

8.In view of the fact that the charge sheet has already been filed, judicial custody of the petitioner may not be warranted and also taking note of the fact that the petitioner is languishing in prison for more than one year, this Court is inclined to grant bail to the petitioner. Accordingly, it is ordered that the petitioner shall be released on bail, on executing a bond for a sum of Rs.10,000/- (Rupees Ten 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, and on further condition that the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders. This Criminal Original Petition stands ordered accordingly.

sd/-

17/05/2018

/ 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 SUB INSPECTOR OF POLICE,
KADAMALAIKUNDU POLICE STATION, THENI DISTRICT,



3 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI

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

WEB COPY

+1. CC to M/S.B.VISWANATHAN, Advocate SR.No.8801

ORDER

IN

CRL OP (MD) No.8351 of 2018

Date :17/05/2018

JM/SV-MMS/GSR/21.05.2018 : 3P/6C