



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

Friday, the Eighth day of June Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

CRL MP (MD) No.3876 of 2018

IN

CRL OP (MD) No.8517 of 2018

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE,
NIB-CID, DINDIGUL, DINDIGUL DISTRICT.
(CR.NO.171/2017).

... PETITIONER / RESPONDENT

Vs

SASIKUMAR

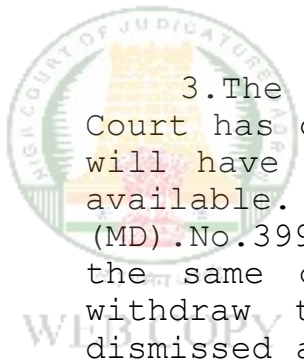
... RESPONDENT / PETITIONER

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to cancel the bail granted to the respondent/petitioner in Crl.OP (MD)No.8517 of 2018 dated 23.05.2018 on the file of this Honourable Court.

Order: This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.A.ROBINSON, Government Advocate (Crl.Side) for the petitioner and of Mr.S.RAMAKRISHNAN, for B.PANDIA RAJAN on behalf of the Respondent the court made the following order:-

Sasikumar is the sole accused in Crime No.171 of 2017 for the offences under Sections 8 (c) r/w. 20 (b) (ii) (c) and 25 of NDPS Act on the file of the Inspector of Police, NIB-CID, Dindigul, Dindigul District.

2.The contraband in question involves commercial quantity i.e., 150 Kilograms of Kanja. He filed Crl.O.P.(MD).No.3999 of 2018 before this Court. Since the parameters set out under Section 37 of NDPS Act were not made out, this Court was about to dismiss the above Bail Petition. At this stage, the learned counsel made an endorsement to withdraw the bail petition. Accordingly, the bail petition is dismissed as withdrawn. The earlier Bail Petition filed by the said accused was also dismissed as withdrawn. The petitioner had filed Crl.O.P.(MD).No.8517 of 2018 before the vacation Court. The third application was moved during the vacation sitting. The bail was granted on 23.05.2018. To cancel the same, the prosecution has filed the present Crl M.P.(MD).No.3876 of 2018 in Crl.O.P.(Md).No.8517 of 2018.



3.The Hon'ble Supreme Court has held that when a Judge of this Court has dismissed the Bail Petition, the subsequent Bail Petition will have to be placed before the very same Judge provided he is available. The second bail petition filed by Sasikumar in CrI.O.P. (MD).No.3999 of 2018 came up before me. When I was about to dismiss the same on merits, the learned counsel made an endorsement to withdraw the Criminal Original Petition. The same was also dismissed as withdrawn. I am very much available in Madurai Bench. Therefore, the petitioner's counsel in all fairness should have moved the third bail petition only before me. The practice of moving the third petition in the vacation Court deserves condemnation in the strongest possible terms. It is also seen that bail has been granted without taking note of the statutory mandate set out under Section 37 of the NDPS Act. Admittedly, 150 kilograms of kanja of commercial quantity is involved. Therefore, without recording the finding that Section 37 of the NDPS Act is fulfilled in this case, bail could not have been granted. The bail granted on 23.05.2018 is illegal. Hence the said order is liable to be cancelled.

4.Accordingly, CrI.M.P.(MD).No.3876 of 2018 in CrI.O.P.(MD).No.8517 of 2018 is allowed accordingly.

sd/-

08/06/2018

/ TRUE COPY /

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

TO

- 1 THE SPECIAL JUDGE FOR EC AND NDPS ACT CASES,
MADURAI.
- 2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 3 THE INSPECTOR OF POLICE,
NIB-CID, DINDIGUL, DINDIGUL DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL MP (MD) No.3876 of 2018

IN

CRL OP (MD) No.8517 of 2018

Date :08/06/2018