



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

Friday, the Thirtieth day of November Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.18626 of 2018

RAJARAM @ RAJA

... PETITIONER / ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
EAST POLICE STATION,
THANJAVUR.
CRIME NO.304 OF 2018

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.M.KARTHIKEYA VENKITACHALAPATHY, Advocate
For Respondent : Mr.S.CHANDRASEKAR, Additional Public Prosecutor

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

ORDER : The Court Made the following order :-

[Orders Reserved on 23.11.2018]

The petitioner, who was arrested by the respondent police on 25.08.2018, for the offences punishable under Sections 8(C) r/w 20 (b)(ii)(B) of NDPS Act, in Crime No.304 of 2018, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 25.08.2018, the petitioner was found in possession of 5 Kgs of Ganja, in a polythene bag.

3. Mr.M.Karthikeya Venkitachalapathy, the learned counsel appearing for the petitioner would submit that the above case was foisted against the petitioner. The petitioner is an innocent and he is nothing todo with the alleged allegation. He never involved in any offence of similar nature. On 25.08.2018, when the petitioner was staying in a lodge, the respondent had picked up him under the guise of enquiry and latter, the case was foisted against him. On the very same day, he was remanded by impeding him another case in Crime No.283 of 2018 in the same Police Station with an intention to detain the petitioner under Goondas Act. He further contended that, only 3 cases are pending against him and the search was not as per Section 42 of NDPS Act. Further, the petitioner has been in incarceration from 25.08.2018, more than 90 days.



4. Mr.S.Chandrasekar, the learned Additional Public Prosecutor appearing for the respondent, on instructions would submit that on 25.08.2018, on the basis of secret information, the respondent Police went to the Devars Hotel, Gandhiji Road, near Thanjavur Head Post Office. While so, at 13.30 hrs, as identified by the informant, the petitioner / accused was carrying with a white colour polythene bag and was apprehended. On enquiry, reveals his name and thereafter, the respondent searched the petitioner and found that he was carrying 5 Kgs of Ganja in a polythene bag and the same was seized under seizure mahazar, in the presence of two witnesses. Later, at 14.30 hrs, the samples were packed and sealed. The petitioner was arrested and he was taken to the Police Station along with the contraband. During this period, the respondent had followed all the mandatory provisions, as per Section 42 of NDPS Act. He also submitted that the petitioner is the sole accused and was carrying a non-commercial quantity of 5 Kgs of Ganja for his personal enrichment to the detriment of the health of the public at large. Further, the petitioner has got several cases, against him. One of the case is under Section 302 IPC., The petitioner is a person with man and muscle power to tamper the evidence and opposed the bail application.

5. I have heard the submissions made by the learned counsels appearing on either side and perused the materials available on record.

6. Considering the facts and circumstances of the case and also considering the period of incarceration of the petitioner, the quantity of contraband seized and the petitioner has not involved in any case of similar nature, this Court is inclined to grant bail to the petitioner, with certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail on his 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 Additional District and Sessions Judge / Special Corut for EC & NDPS Act Cases, Thanjavur and on further condition that:

[a] the petitioner shall appear before the learned respondent Police daily twice ie., at 10.00 a.m., & 5.00 p.m., until further orders.

[b] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[c] the petitioner shall not abscond either during investigation or trial.

[d] On breach of any of the aforesaid conditions, the learned 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 learned 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]**.

[e] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

30/11/2018

/ TRUE COPY /

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

TO

1. THE LEARNED ADDITIONAL DISTRICT AND
SESSIONS JUDGE / SPECIAL CORUT FOR
EC & NDPS ACT CASES, THANJAVUR.
2. THE INSPECTOR OF POLICE,
EAST POLICE STATION, THANJAVUR.
3. THE SUPERINTENDENT, CENTRAL PRISON,
TRICHY.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1.CC to Mr.M.KARTHIKEYA VENKITACHALAPATHY, Advocate SR.No.97940

ORDER

IN

CRL OP(MD) No.18626 of 2018

Date :30/11/2018

MS/VR-MMS/SAR-4/30.11.2018/3P.6C