



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

Thursday, the Sixth day of December Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.17943 of 2018

ELAYENDRAN

... PETITIONER /SOLE ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
GUDALUR NORTH POLICE STATION,
THENI DISTRICT.
CRIME NO.201 OF 2018

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.M.JEGADEESH PANDIAN, Advocate

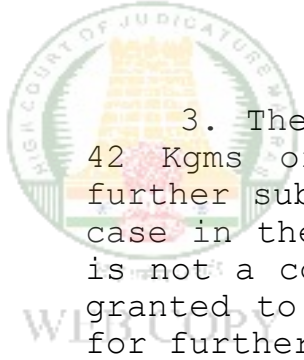
For Respondent : Mr.S.CHANDRASEKAR, Additional Public Prosecutor

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

ORDER : The Court Made the following order :-

The petitioner was arrested and remanded to judicial custody since 03.08.2018, for the offence punishable under Section 8(c) r/w 20(b)(ii)(C) of NDPS Act, 1985, in Crime No.201 of 2018, on the file of the respondent police, seeks bail.

2. The learned counsel for the petitioner would submit that the petitioner was found in possession of 2 Kgms of Ganja in Crime No.216 of 2016 and thereafter remanded to judicial custody on 03.08.2018. He would further submit that during the custody obtained a confession and the petitioner was remanded in Crime No.201 of 2018 through PT Warrant on 16.08.2018. He would further submit that in this case the seizure of Ganja is of 40 Kgms and that the petitioner has been falsely implicated in this case and that the petitioner was not present during the time of seizure on 15.07.2018 and his name is not found in the First Information Report and only on basis of the confession of the petitioner in Crime No.216 of 2018, the petitioner was arrested in this case. He would submit that the petitioner had produced a certified copy of the First Information report in Crime No.201 of 2018 to strengthened his contention that the petitioner has been falsely implicated in this case and the above said First Information report in Crime No.201 of 2018 had reached the Court on 04.08.2018.



3. The learned Additional Public Prosecutor would submit that 42 Kgms of Ganaja is twice the commercial quantity. He would further submit that the petitioner has involved in similar nature of case in the year 2017 in Crime No.113 of 2017, admittedly that case is not a commercial quantity. He would also submit that if bail is granted to the petitioner he may escape and could not be available for further proceedings in the case.

4. This Court had called for the records in Crime No.201 of 2018. On perusal of the records, this Court finds that the First Information Report and the Seizure report had reached the Court on 04.08.2018. Further the contraband has been produced in the Court on 26.09.2018. It creates a serious doubt in the manner in which the arrest and recovery have been made in this case. In cases of this nature, the officer should be more vigilant, possession has not been established.

5. Considering the serious discrepancy in the manner in which the contraband has been seized inordinate delay in sending the same to the concerned Court and also considering the period of incarceration of the petitioner. Further the petitioner undertakes to appear before the respondent police regularly to cooperate with the investigation and not to commit any offence, this Court is inclined to grant bail to the petitioner.

6. 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 Principal Special Court for EC and NDPS Act Cases, Madurai and on further condition that:

[a] the petitioner shall appear before the respondent police on daily at 10.30 a.m., and 05.30 p.m., without fail, until further orders.

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

[c] the petitioner shall not tamper with evidence or witness 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.



7. Registry is directed to send back the original records immediately to the Trial Court.

sd/-
06/12/2018

/ TRUE COPY /

WEB COPY

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

TO

1. THE JUDGE,
PRINCIPAL SPECIAL COURT FOR EC AND NDPS ACT CASES,
MADURAI
2. THE INSPECTOR OF POLICE,
GUDALUR NORTH POLICE STATION,
THENI DISTRICT.
3. THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE SECTION OFFICER,
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to Mr.M.JEGADEESH PANDIAN Advocate SR.No.22822

ORDER
IN
CRL OP (MD) No.17943 of 2018
Date :06/12/2018

MS/Vs/SAR-4/06.12.2018/3P.7C