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

Wednesday, the Twenty Sixth day of June Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD) No.8213 of 2019

A.SADHAM HUSSAIN ... PETITIONER / ACCUSED NO.5

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
ANNA NAGAR POLICE STATION,
MADURAI. ... RESPONDENT / COMPLAINANT

For Petitioner : MR.R.VENKATESAN 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 :-

Principal Special Court for EC and NDPS Act cases, The petition has been filed by Accused No.1 seeking bail for the alleged offence punishable under Sections 8 r/w 20 (b) (ii) & 27 (A) and 29 of NDPS Act, in C.C.No.197 of 2018

2. Heard both sides.

3.The learned counsel appearing for the petitioners has submitted that in FIR, the petitioner along with other accused persons illegally transported 22 Kg of Ganja. He further submitted that only based on the confession of co-accused, the petitioner has been falsely implicated in this case. He further submitted that the petitioner is in custody from 19.01.2018 and therefore, he prayed to grant of bail to the petitioner.

4.The learned Additional Public Prosecutor appearing for the respondent has submitted that totally 8 accused were involved in this case. The petitioner along with other accused persons illegally transported 22 Kg Ganja. A1, A2 & A6 were already released on bail. He further submitted that 16 previous cases are pending against the petitioner. Hence, he strongly opposed this petition.

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5.In the FIR, it is stated that on 23.07.2017 at about 12 noon, when a police party was in surveillance in front of the house of one

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Load Murugan @ Murugan, the persons, who came there attempted to escape from that place and the police party caught hold of them Viz., 1) Arunpandian S/o.Mariappan (A) 2) Karthi S/o.Pandi (A2) and enquired with them and they have stated that the other accused persons including the petitioner herein ran away from the said place. But in the FIR, it is not stated that the other accused presons also came there and they ran away on seeing the police party. So, the presence of the petitioner in the place of occurrence itself is a doubtful one. Further, only based on the confession given by the co-accused, the petitioner herein has been implicated in the above case and no recovery has been made from the petitioner. The recovery was made only from A1 and A2. The petitioner is in custody from 19.01.2018. There are reasonable grounds believing that the petitioner is not guilty of aforesaid offence as contemplated under Section 37 of NDPS Act. Though, it is stated that the petitioner is having 16 previous cases under IPC offence, since this Court is satisfied that there are reasonable grounds for believing that the petitioner is not guilty of aforesaid offence, the mere pendency of the previous case under IPC offence will not be a bar granting bail to the petitioner. Therefore, this Court is inclined to grant bail to the petitioner by imposing conditions.

(a)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.

[b]the petitioner shall report before the respondent police daily at 10.00.a.m for a period of one month and thereafter, as and when required for the interrogation.

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

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

[e]On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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].

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

sd/-
26/06/2019

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

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TO

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

2 THE INSPECTOR OF POLICE,
ANNA NAGAR POLICE STATION,
MADURAI.

3 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

+1. CC to M/S.R.VENKATESAN Advocate SR.No. 10536

ORDER
IN
CRL OP(MD) No.8213 of 2019
Date :26/06/2019

JM/VR/SAR 3/26.06.2019/3P/6C

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