



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

Monday, the Eighth day of July Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD) No.6825 of 2019

GUNASEKARAN

... PETITIONER /2nd ACCUSED

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
NIB CID, TRICHY.
CRIME NO.59 OF 2018

... RESPONDENT / COMPLAINANT

For Petitioner : MR.D.VENKATESH Advocate

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

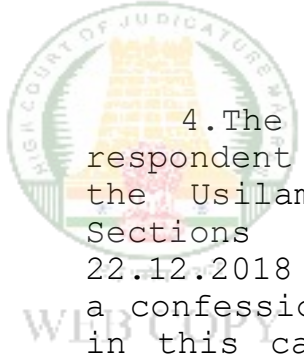
PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petition has been filed by the Accused No.3 seeking bail for the alleged offence punishable under Sections 8 (c) r/w 20 (b) (ii) (c) & 25 of NDPS Act, in Crime No.59 of 2018.

2. Heard both sides.

3.The learned counsel appearing for the petitioner has submitted that the name of the petitioner has not been mentioned in the FIR. He further submitted that in the FIR only two persons name have been mentioned. He further submitted that the petitioner herein was arrested by the Usilampatti Taluk Police, in Crime No.298 of 2018 under Sections 8 (c) r/w 20 (b) (ii) (c) & 29 (1) of NDPS Act, 1985, and confession was obtained and based on the said confession only, he has been implicated in this case. He further submitted that the confession which was said to have been given by the petitioner before the police is inadmissible under the Evidence Act. He further submitted that nothing has been recovered from the petitioner, in pursuance of the said confession. He further submitted that the petitioner is in custody from 11.01.2019 and therefore, he prayed to grant bail to the petitioner.



4.The learned Additional Public Prosecutor appearing for the respondent has submitted that the petitioner herein was arrested by the Usilampatti Taluk Police in Crime No.298 of 2018 under Sections 8 (c) r/w 20 (b) (ii) (c) & 29 (1) of NDPS Act, 1985, on 22.12.2018 and at that time, the petitioner herein voluntarily gave a confession statement wherein he has admitted that he has involved in this case also and based on the said confession, he has been formally arrested in this case on 11.01.2019. He further submitted that the petitioner is already involved in the similar type of case in Crime No.298 of 2018, in Usilampatti Taluk Police Station. Hence, he has strongly opposed this petition.

5.A perusal of FIR show that the case was registered against two persons namely 1) Sathyanarayana Reddy 2) Jerry. In the FIR, nowhere it is stated that one more person also involved in the above crime. Further the aforesaid accused persons also have not stated anything in their confession statement with regard to the involvement of the petitioner herein. According to the prosecution, the petitioner herein was arrested by Usilampatti Police, in Crime No.298 of 2018 on 22.12.2018 and at that time, the petitioner herein voluntarily gave a confession stating that he involved in the present case also. No material has been seized from the petitioner to show that the petitioner herein involved in the case. As per the law, the confession which is given before the police is not admissible, and hence, this Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail as contemplated under Section 37 (1) (b) (ii) of the NDPS Act. 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 their executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties each for a like sum to the satisfaction of the Special Court for EC and NDPS Act Cases, Pudukottai.

[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/-

08/07/2019

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

TO

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

2 THE INSPECTOR OF POLICE,
NIB CID, TRICHY.

3 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

+1. CC to M/S.D.VENKATESH Advocate SR.No. 11289

ORDER

IN

CRL OP(MD) No.6825 of 2019

Date :08/07/2019

JM/JC/SAR 1/11.07.2019/3P/6C