



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 18/07/2019

WEB COPY

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD). No.8119 of 2019

Dharma @ Dharmaraj

... Petitioner/Accused - 2

Vs

State Rep.by

The Inspector of Police,,

NIB CID, Madurai.

Crime No.75 of 2019.

... Respondent/Complainant

For Petitioner : M/s.S.MP Amalan, Advocate.

For Respondent : Mr.V.Neelakandan,

Additional Public Prosecutor

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

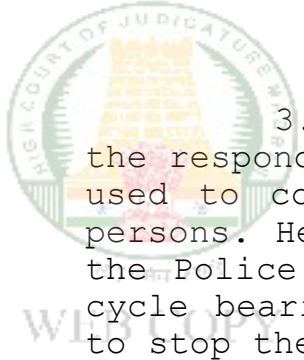
PRAYER :-

For anticipatory bail in cr.no.75 of 2019 on the file of the respondent police.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 8(C), 20(b)(ii)(C) & 25 of NDPS Act, 1985 in Crime No.75 of 2019, seeks anticipatory bail.

2.The learned counsel appearing for the petitioner has submitted that since the petitioner happens to be the friend of A-1, he has been falsely implicated in this case. He further submitted that A-1 is the friend, the petitioner just gave a lift to him without knowing the fact that he is carrying ganja. He further submitted that in the confession said to have been given by A-1, it is not clearly stated that the petitioner has helped A-1 only after knowing the fact that A-1 is carrying ganja. He further submitted that A-1 in his confession statement has stated that he asked his friend namely Dharma (A-2, the petitioner herein) to drive the vehicle and A-1 was pillion rider and apart from that, nothing has been stated. The petitioner has been driving the vehicle, without knowing the fact that A-1 was carrying ganja and therefore, he prayed for grant of anticipatory bail to the petitioner.

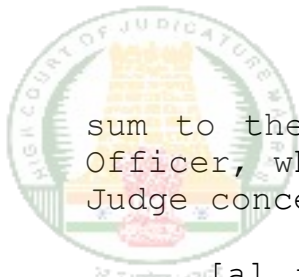


3. The learned Additional Public Prosecutor appearing for the respondent has submitted that A-1 is an habitual offender and he used to collect ganja from his father and sell it to some other persons. He further submitted that on 05.06.2019 at 10.40 a.m, when the Police was on surveillance, two persons came in a Pulsar Motor cycle bearing Regn.No.TN-59-0330 and when the Police gave a signal to stop the vehicle, the said vehicle was stopped and A-1 was nabbed by the police, but the petitioner herein escaped through the said motor cycle. He further submitted that A-1 gave a confession statement stating that he made a request with the petitioner to come with his bike for taking the ganja and only based on his request, the petitioner has come with his bike and gave lift to A-1 and therefore, after knowing the fact that A-1 is having ganja and only with a view to help him to transport the said ganja, the petitioner gave lift to him. Therefore, he strongly opposed this petition.

4. In the F.I.R, it is stated that on 05.06.2019 at about 10.40 a.m, when the Police party was on surveillance on Thiruvathavur-Melur road near Andipatti TASMAL Wine Shop, two persons came in a Pulsar Motor cycle bearing Regn.No. TN-59-0330, in which the person who was sitting as pillion rider was carrying a bag containing ganja and the police team gave signal to stop the vehicle. The said vehicle was also stopped. Thereafter, A-1 was nabbed by the Police. But the petitioner herein escaped from the said place with the motor cycle. But in the confession statement said to have been given by A-1 on 05.06.2019 at about 11.20 a.m, it is stated that the petitioner herein was driving his motor bike, in which A-1 was coming as pillion rider and he was carrying ganja for the purpose of sale. So, if the petitioner and A-1 came in a bike with ganja only at 11.20 a.m, they could not have been seen at the place of occurrence at 10.40 a.m as stated in the FIR. Further, in the confession statement, A-1 has not stated that after knowing the fact that A-1 was carrying ganja, the petitioner herein gave lift to him. Further, in the counter statement also, it is not stated that only after knowing the fact that A-1 was carrying ganja, the petitioner herein gave lift to him. Further, it is not stated that no previous case is pending against the petitioner.

5. Taking into consideration of the aforesaid facts, this Court is satisfied that there are reasonable grounds for believing that the petitioner is not guilty of such offence and that he is not likely to commit any offence, while on bail, as envisaged under Section 37(i)(b)(ii) of NDPS Act. Hence, this Court is inclined to grant anticipatory bail to the petitioner by imposing certain conditions.

6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judge, EC and NDPS Court, Madurai on condition that the petitioner shall execute 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 respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Judge concerned and on further condition that:

[a] if the petitioner fails to surrender before the concerned Judge within a period of 15 days, this order shall stand automatically cancelled.

[b] the petitioner shall report before the respondent Police, daily at 10.30 a.m for a period of three weeks and thereafter, as and when required for the interrogation.

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

[d] the petitioner shall not abscond 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 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].

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

sd/-

18/07/2019

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

TO

1. THE JUDGE,
EC AND NDPS COURT, MADURAI.
2. THE INSPECTOR OF POLICE,,
NIB CID, MADURAI.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.S.MP AMALAN Advocate SR.No.12003

ORDER IN
CRL OP(MD) No.8119 of 2019
Date :18/07/2019