



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

Date : 19/07/2019

WEB COPY

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD). No.9604 of 2019

Jeevanantham

... Petitioner/Accused No.1

Vs

State rep by
The Inspector of Police,
Sellur Police Station, Madurai City,
Madurai District
Crime No.1554/2018

... Respondent/Complainant

For Petitioner : M/s.R.Selvaraj,
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.1554 of 2018 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 20(b), (ii), (B), 25, 29(1) of NDPS Act in Crime No.1554 of 2018, seeks anticipatory bail.

2.The learned counsel for the petitioner has submitted that in the F.I.R, it is stated that only three persons namely Premkumar, Kamu and Palanisamy were found in possession of ganja, weighing about 5 kgs. He further submitted that based on the confession said to have been given by A-2 (Kamu), the petitioner has been implicated in the above case. He further submitted that even in the said confession statement, he has stated that on 18.09.2018, 2 kgs of ganja has been handed over by the petitioner to A-1. Except the said confession, no other material has been produced by the prosecution to show that the petitioner herein is involved in the above case. He further submitted that previous bail application was dismissed on the ground that investigation is at initial stage and



now, investigation has been completed and therefore, he prayed to grant anticipatory bail to the petitioner.

4. Per contra, the learned Additional Public Prosecutor appearing for the respondent has submitted that based on the confession given by A-2, the petitioner herein has been arrayed as A-2. He further submitted that in the confession given by A-2, he has clearly stated that the petitioner herein has handed over 2 kgs of ganja to A-1 and therefore, he strongly opposed this petition. However, he fairly conceded that no previous case is pending against the petitioner.

5. The ganja involved in the said case is 5 kgs, the said quantity does not come in the category of 'Commercial Quantity', it is intermediate quantity. In the F.I.R, it is stated that when the police party was on surveillance, on 18.09.2018 at about 11.15 a.m, two persons came in a motorcycle and one person came by walk and on seeing the Police team, one person ran away from the said place and his name is Premkumar and the persons, who came in the motorcycle were arrested by the Police namely Kamu and Palanisamy. Only based on the confession said to have been given by A-2, the petitioner has been arrayed as A-1. Further in the said confession also, A-2 has stated that on 18.09.2018, the petitioner herein has handed over 2 kgs of ganja to accused No.1. Except the said statement, no other material has been produced before the Court. Further, the learned Additional Public Prosecutor has fairly conceded that no previous case is pending against the petitioner.

6. Taking into consideration of the aforesaid facts, this Court is inclined to grant anticipatory bail to the petitioner, by imposing certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Special Judge for 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) 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.

<https://hcservices.ecourts.gov.in/hcservices/>
[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/-
19/07/2019

/ TRUE COPY /

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

TO

- 1.THE SPECIAL JUDGE FOR
EC AND NDPS COURT, MADURAI.
 - 2.THE INSPECTOR OF POLICE,
SELLUR POLICE STATION, MADURAI CITY,
MADURAI DISTRICT.
 - 3.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. CC to Mr.R.SELVARAJ Advocate SR.No.76633

ORDER
IN
CRL OP(MD) No.9604 of 2019
Date :19/07/2019

vs
TK/VR/SAR.2/01.08.2019/3P/5C