



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

Date : 30/08/2019

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PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD). No.11757 of 2019

Sooriyaparakash

... Petitioner/Accused No.2

Vs

The State rep.by
The Inspector of Police,
Thadi Kombu Police Station,
Dindigul District.
Crime No. 281 of 2019.

... Respondent/Complainant

For Petitioner : M/s.S.Muniyandi,
Advocate.

For Respondent : Mr.V.Neelakandan,
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime No.281 of 2019 on the file of the
Respondent Police.

ORDER : The Court Made the following order :-

The petition has been filed by Accused No.2 seeking bail for the alleged offence punishable under Section 8 (c) r/w 20 (b) (ii) (c) and 25 of NDPS Act, in Crime No.281 of 2019.

2. Heard both sides.

3.The case of the prosecution is that on 10.07.2019, at about 06.30 a.m, when the police party was on surveillance on the Dindigul - Trichy By-pass Road, Anjali Roundana, on the way of Chettinaicken patty, a Maruthi Alto Car bearing Reg.No.Tn 57 BA 1198 came from Eastern side, the said car was stopped by the police and found that one Senthil (A1) was driving the said car and in the rear seat his wife Revathi (A2) and his son Sooriyaparakash (A3)/petitioner herein were sitting. The said vehicle was searched by the police party and found 12 pockets. Each containing 2 kgs of Ganja in the dicky of the



said car. Totally 24 kgs were found. Hence, the accused were arrested and remanded to judicial custody. The contraband were seized and the case was registered in Crime No.281 of 2018 for the punishable under Section 8 (c) r/w 20 (b) (ii) (c) and 25 of NDPS Act.

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4.The learned counsel appearing for the petitioner has submitted that though it is stated in the FIR that the petitioner herein was sitting in the rear seat of the said car in the seizure mahazar, it is clearly stated that the contraband were seized only from A1 and therefore it cannot be said that the petitioner herein was in joint possession of the aforesaid contraband. He further submitted that the petitioner is in custody from 10.07.2019 and he has been arrayed as accused merely because he is the son of A1 and hence, he prayed to grant bail to the petitioner.

5.The respondent has filed counter affidavit. The learned Additional Public Prosecutor appearing for the respondent has submitted that on 10.07.2019, when the police party was in surveillance, the aforesaid car came from the East side and the same was stopped and it was found that A1 was driving the said car and the petitioner herein and his mother were sitting in the rear seat. He further submitted that on the side of the dicky, it was found 12 pockets of Ganja. Each pocket containing 2 kgs of Ganja. Totally 24 Kgs of Ganja were found and the same was seized. He further submitted that since all the three accused were travelling in the said car, it has been presumed that the possession of the said Ganja was only recovered from A1 in the Mahazar. It is stated that the said contraband was seized from the accused No.A1. But, it does not mean that the petitioner has not committed any offence and therefore, he prayed to dismiss the petition.

6.Taking into consideration of the fact that eventhough it is stated that the petitioner herein was also travelling in the said car, in the Mahazer, it is clearly stated that the contrabands were seized only from A1. The said fact would raise a doubt as to whether the petitioner was actually travelled in the said car. Therefore, this Court is of the view that the petitioner has satisfied the conditions envisaged under Section 37 (1) (b) (ii) of the NDPS Act. Hence, this Court is inclined to grant bail to the petitioner.

[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 Additional District Judge/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/-
30/08/2019

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

TO

- 1.THE ADDITIONAL DISTRICT JUDGE /
PRINCIPAL SPECIAL COURT FOR EC AND
NDPS ACT CASES, MADURAI.
 - 2.THE INSPECTOR OF POLICE,
THADI KOMBU POLICE STATION,
DINDIGUL DISTRICT.
 - 3.THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
 - 4.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. CC to Mr.S.MUNIYANDI Advocate SR.No.14454

ORDER
IN
CRL OP(MD) No.11757 of 2019
Date :30/08/2019

TK/VR/SAR.3/03.09.2019/3P/6C