

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

Date : 12/09/2019

PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

CRL OP(MD). No.12054 of 2019

Thavamani

... Petitioner/Accused No.1

Vs

The Inspector of Police,
Velipalayam Police Station,
Nagapattinam District.
(Crime No.199 of 2019).

... Respondent/Complainant

For Petitioner : M/s.R.Alagumani,
Advocate.

For Respondent : Mr.A.Robinson,
Government Advocate (Crl.Side)

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

PRAYER :-

for Bail in Crime No.199 of 2019 on the file of the Respondent Police.

ORDER : The Court made the following order :-

Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Crl. Side) appearing for the respondent.

2. The petitioner is arrayed as A1. The petitioner is in custody since 24.06.2019 for the offences punishable under sections 8(c) and 20(b)(ii)(C) of NDPS Act, 1985, in Crime No.199 of 2019 on the file of the respondent police. He seeks bail.

3. I went through the contents of the FIR. It reads that source information was received to the effect that the petitioner along with others were keeping ganja at Tharma Kovil Street, Velippalayam. When the police party went there, the petitioner and others are said to have ran away from the spot after seeing the police. It is further stated that they had left behind two gunny bags of ganja. On weighing the same, it was found to contain 20 kilo 200 gram ganja. No doubt, it is a commercial quantity and the parameters set out in Section 37 of NDPS Act will have to be

4. It is seen that the petitioner was involved in a large number of cases under TNP Act. He was implicated in almost twenty three cases.

5. I am of the view that in order to discourage the petitioner for committing further offence under TNP Act, he was implicated in this case under NDPS Act. Except the statements of the police that the petitioner ran away from the spot, there is virtually nothing to connect the petitioner with the possession of commercial quantity of ganja. Admittedly, there was no recovery from the petitioner.

6. I find it very difficult to believe that two gunny bags containing commercial quantity of ganja was simply left in a open place and that the accused was ran away from the spot. I am satisfied that on a prima facie reading, the petitioner is not guilty of the offence in question. The petitioner is not having any previous case under NDPS Act. Therefore, the second requirement that the petitioner is not likely to repeat the offence, is also satisfied. Hence, bail is granted. Accordingly, the petitioner is ordered to be released on bail, subject to the following conditions;

(i) 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 Special Court for EC Act and NDPS Act cases, Thanjavur.

(ii) the petitioner is directed to appear before the respondent police as and when required for the interrogation.

(iii) the petitioner shall not tamper with evidence or witness either during investigation or trial.

(iv) the petitioner shall not abscond either during investigation or trial.

[v] 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 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].

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

sd/-

12/09/2019

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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 ACT AND NDPS ACT CASES,
THANJAVUR.

2 THE OFFICER INCHARGE, DISTRICT JAIL,
NAGAPATTINAM.

3 THE INSPECTOR OF POLICE
VELIPALAYAM POLICE STATION,
NAGAPATTINAM DISTRICT

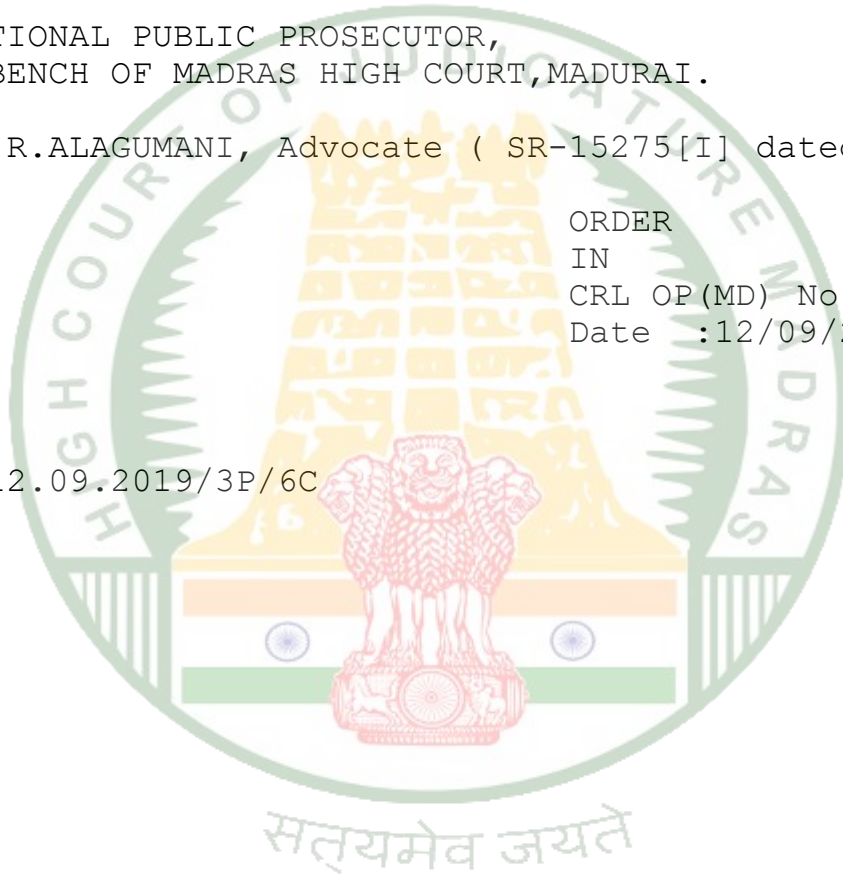
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.R.ALAGUMANI, Advocate (SR-15275[I] dated 12/09/2019)

ORDER
IN
CRL OP(MD) No.12054 of 2019
Date :12/09/2019

RMI

ES/PN/SAR 3/12.09.2019/3P/6C



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