

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.33153 of 2019

Moorthy

... Petitioner

Vs.

State Rep. By its
The Inspector of Police,
PEW, Dharmapuri.
(Crime No.3432 of 2020) ... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C., praying to enlarge the petitioner on bail in the event of his arrest in C.C.No.85 of 2001 on the file of the Special Judge, Salem for NDPS & EC Act cases (FAC) Court-III, Salem District in Crime No.3432 of 2020 on the file of the Inspector of Police, PEW Dharmapuri.

For Petitioner : Mr.B.Vasudevan

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner who apprehends pursuant to the NBW issued by the learned Special Judge, Salem for NDPS & EC Act cases (FAC) Court-III, Salem District, in C.C.No.85 of 2001, seeks anticipatory bail.

2. The learned counsel for the petitioner would submit that the petitioner was originally arrested and thereafter he was released on bail and without any summons being issued. Thereafter, through the Court learned Judge has issued NBW against him.

3. The learned Additional Public Prosecutor would submit that it is a case where the petitioner along with other accused was found in possession of 65.300 kg of ganja which is of commercial quantity. He would also submit that without taking into consideration Section 57 of NDPS Act, the Trial Court has granted bail and thereafter coming out on bail, the petitioner fails to appear before the trial Court and thereby the case against the other accused was split up and taken up in CC.No.142 of 2002. Hence, he vehemently opposed for grant of anticipatory bail to the petitioner.

4. This Court had by order dated 24.03.2020 by proceedings in D.No.339 of 2020. On 27.03.2020 call for report and report has been received from the learned trial Judge in D.No.339 of 2020.

5. On perusal of the report that, the petitioner/A1 after release on bail had not appeared before the trial and the trial Court has issued last summon as against the petitioner in D.No.201 of 2002, dated 20.02.2002. Thereafter, the trial Judge has also issued bailable warrant against the sureties of the petitioner and also issued NBW against the petitioner/A1 and the NBW has been pending for a long time.

7. At this juncture, the learned counsel for the petitioner would submit that the petitioner has not received any summons and that he has prepared to surrender before this Court concerned and file appropriate petition to recall the warrant and that direction may be issued to the learned Judge to consider the petition to recall on its own merits on the same day of surrender.

8. Taking into consideration, the submissions made by the counsels, the petitioner is directed to surrender before the trial Court on or before 07.09.2020 and the learned trial Judge considering the facts and the records and decided the case on its own merits on the same day of surrender.

9. Accordingly, this criminal original petition is disposed of.

-sd/-

05/08/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SPECIAL JUDGE,
SALEM FOR NDPS & EC ACT CASES (FAC) COURT-III,
SALEM DISTRICT.

2 THE INSPECTOR OF POLICE,
PEW, DHARMAPURI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S. B.VASUDEVAN Advocate on payment of necessary charges

CRL OP.33153/2019

Date :05/08/2020