



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 29/01/2020

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PRESENT

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

CRL OP(MD). No.1159 of 2020

Umar Farook

... Petitioner/Accused

Vs

The Superintendent of Customs,
Air Intelligence Unit,
Customs Airport,
Sempathu, Trichy.
(O.R.No.39 of 2013)

... Respondent/Complainant

For Petitioner : M/s.E.Satish Rajkumar,
Advocate.

For Respondent : Mr.Arul Vadivel @ Sekar,
Special Public Prosecutor for Customs

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

PRAYER :-

To enlarge the petitioner on bail in connection with O.R.No.39 of 2013 on the file of the respondent police and thus render justice.

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 in custody since 24.11.2013 for the offences punishable under sections 8(c) r/w 21(c), 22(c), 23(c), 28 and 29 of NDPS Act, 1985, in O.R.No.39 of 2013 on the file of the respondent police. He seeks bail.

3. The petitioner was caught red handed at Trichy Airport and was found to be in possession of 1775 grams of Amphetamine. As per the schedule, 50 grams itself constitutes commercial quantity. Of course, thus there are formidable materials against the petitioner herein, nevertheless the fact remains that for the last six years and two months, the petitioner is in jail. There are totally nine



witnesses. But only two witnesses have been examined. The petitioner cannot be blamed for the delay.

4. Therefore, even though I will not be in a position to give a finding that the tests laid down in Section 37 of the NDPS Act are fulfilled in this case, still I am constrained to grant relief. I find that the petitioner's fundamental right to fair and speedy trial under Article 21 of the Constitution has been infringed. Therefore, even though Section 37 of the NDPS Act is not fulfilled in this case, I am still inclined to grant bail.

5. The learned Special Public Prosecutor appearing for the respondent expressed his apprehension that the petitioner may abscond and not be available to face the trial.

6. To allay the said apprehension expressed by the learned Special Public Prosecutor, the petitioner's counsel, on instructions, states that he will abide by any condition that may be imposed by this Court.

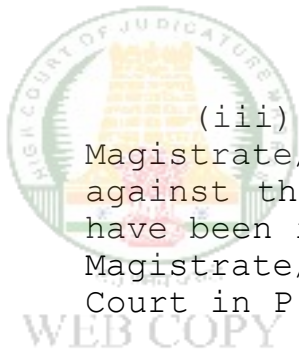
7. The petitioner's counsel gives an undertaking that the petitioner will not apply for modification or relaxation of the said condition.

8. The petitioner is directed to stay at Trichy and report before the respondent daily at 09.00 a.m., and 06.00 p.m., before the Inspector of Police, Cantonment Police Station. Of-course, on the hearing dates, the condition to report before the respondent in the morning need not be complied with. The petitioner will maintain a dedicated mobile phone which shall always be in on mode. The petitioner's location should be evident to the respondent. The respondent will monitor the movement of the petitioner by periodically calling him over the mobile phone. These strict conditions have been incorporated to ensure that the petitioner does not flee from the arm of justice.

9. Subject to the aforesaid conditions, I am inclined to enlarge the petitioner on bail with certain conditions. 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 learned Special Court for E.C.Act and N.D.P.S Act cases, Pudukottai.

(ii) the petitioner is directed to stay at Trichy and report before the respondent police daily at 09.00 a.m., and 06.00 p.m., before the Inspector of Police, Cantonment Police Station until further orders.



(iii) 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].

sd/-
29/01/2020

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

TO

1. THE SPECIAL JUDGE FOR EC ACT AND NDPS ACT CASES,
PUDUKOTTAI.
2. THE SUPERINTENDENT OF CUSTOMS, AIR INTELLIGENCE UNIT,
CUSTOMS AIRPORT, SEMPATHU, TRICHY.
3. THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
4. THE SPECIAL PUBLIC PROSECUTOR OF CUSTOMS,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE INSPECTOR OF POLICE,
CANTONMENT POLICE STATION, TRICHY.

+1 CC to M/s.E.SATISH RAJ KUMAR, Advocate (SR-1804[I] dated 29/01/2020)

+1 CC to M/s.C.ARUL VADIVEL @SEKAR, Advocate (SR-1704[I] dated 29/01/2020)

ORDER
IN
CRL OP(MD) No.1159 of 2020
Date :29/01/2020

MS/PN/SAR-4/26.02.2020/3P.8C