



3. The case of the prosecution is that the petitioner was found in possession of narcotic substance (diazepam).

4. According to the prosecution, the contraband weighed 600 grams.

5. The petitioner's counsel had taken a specific stand in his bail petition that there was no recovery from him and that, the contraband was not produced before the jurisdictional Magistrate till date.

6. To enable the prosecution to get instructions, the matter was adjourned.

7. Today, when the matter was taken up for hearing, the learned Government Advocate (Crl.side), submitted that the contraband was produced before the Court concerned yesterday.

8. I asked a specific question to the learned Government Advocate (Crl.side) as to why the contraband was not produced before the Court till yesterday.

9. Thiru. Sabarinatham, SSI, West Police Station, Kumbakonam, attached to the respondent police station is present. Thiru. Sabarinatham, SSI of Police submitted that due to law and order, election duty and other bandobust duty, the contraband was not produced before the Court concerned.

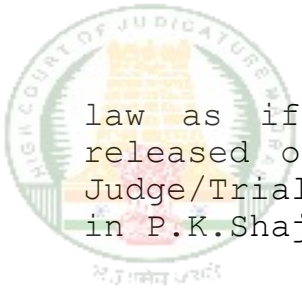
10. I find the explanation to be shocking. The non production of the contraband before the Court concerned throws considerable doubt on the very claim of seizure and recovery itself. I, therefore, come to the conclusion that the petitioner is not likely to have committed the offence in question. The petitioner is not having any previous case under the NDPS Act. Since both the tests under Section 37 of the NDPS Act are fulfilled, bail is granted.

11. 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 Additional District and Sessions Judge, Presiding Officer and Special Court for E.C.Act Cases, Thanjavur.

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

(iii) on breach of any of the aforesaid conditions, the learned Additional District and Sessions Judge/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 Additional District and Sessions Judge/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

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sd/-
31/01/2020

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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
PRESIDING OFFICER AND SPECIAL COURT FOR E.C.ACT CASES,
THANJAVUR.
- 2 THE SUPERINTENDENT ,
CENTRAL PRISON, TIRUCHIRAPPALLI.
- 3 THE INSPECTOR OF POLICE
KUMBAKONAM WEST POLICE STATION, THANJAVUR DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.K.M.KARUNAKARAN, Advocate (SR-2000 dated 31/01/2020)

ORDER IN
CRL OP(MD) No.1434 of 2020
Date :31/01/2020

RMI
ES/VR/SAR 4/31.01.2020/3P/6C