



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

Date : 10/02/2020

PRESENT

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

CRL OP(MD). No.1923 of 2020

A.Balamurugan

... Petitioner/Accused No.6

Vs

The State rep.by
The Inspector of Police,
Uthappanayackanur Police Station,
Usilampatti Taluk,
Madurai District.
Crime No.45/2010

... Respondent/Complainant

For Petitioner : M/s.P.Senguttuarasan, Advocate.

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

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

PRAYER :-

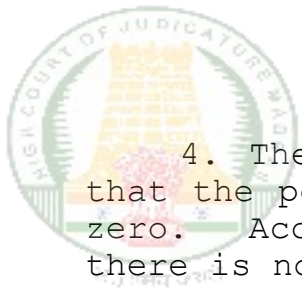
For Bail in C.C.No. 141/2017 on the file of the learned 1st Additional Sessions Court for NDPS Act Cases, Madurai.

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 figuring as A6 in Crime No.45 of 2010 registered on the file of respondent police for the offences under Section 8(c) r/w. 20(b)(ii)(C), 25 and 27 of Narcotic Drugs and Psychotropic Substances Act.

3. There are totally six accused in this case. The petitioner is figuring as A6. The case was charge sheeted and it was taken on file in S.C.No.235 of 2010 on the I Additional Sessions Court for NDPS Act Cases, Madurai. The petitioner did not appear before the Court below and as a result NBW came to be issued against the petitioner herein. The case was split up as far as the petitioner is concerned and numbered as C.C.No.141 of 2017. Though the petitioner was originally granted anticipatory bail but it was not given without satisfying the twin tests laid down in Section 37 of NDPS Act. Hence, NBW came to be issued against the petitioner. The petitioner had surrendered on 11.12.2019. Hence, he seeks bail.



4. The learned counsel appearing for the petitioner contended that the possibility of the petitioner being convicted is virtually zero. According to him, except the confession of the co-accused, there is no other material against the petitioner herein.

5. The learned Government Advocate (Crl. Side) on instructions from Mr.P.Murugan, the Inspector of Police, Uthappnayackanur Police Station, Usilampatti accepted and admitted that that other than the confession of the co-accused, there is no other material against the petitioner.

6. The Hon'ble Supreme Court in a recent decision rendered in ***Criminal Appeal No.1897 of 2019 (Sujit Tiwari v. State of Gujarat and Another)*** held as follows:-

11. At this stage, without going into the merits, we feel that the case of the appellant herein is totally different from the other accused. Reasonable possibility is there that he may be acquitted.

7. The petitioner is not having any previous case.

8. Thus the twin tests laid down in Section 37 of NDPS Act are satisfied. Hence, 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 I Additional Special Court for NDPS Act Cases, Madurai.

(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 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/-
10/02/2020

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



TO

1. THE I ADDITIONAL SPECIAL COURT FOR NDPS ACT CASES,
MADURAI.

2. THE INSPECTOR OF POLICE,
UTHAPPANAYACKANUR POLICE STATION,
USILAMPATTI TALUK,
MADURAI DISTRICT.

3. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

+1. CC to M/S.P.SENGUTTUARASAN Advocate SR.No.2747

ORDER

IN

CRL OP(MD) No.1923 of 2020

Date :10/02/2020

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