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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 01/02/2021

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL OP(MD). No.948 of 2021

M.Gunasekaran

... Petitioner/Accused No.2

Vs

State Rep. by
The Inspector of Police,
Vedasandur Police Station,
Dindigul District.
Crime No.1684 of 2020.

... Respondent/Complainant

For Petitioner : Mr.Karuppasamy Pandiya.G.,
Advocate.

For Respondent : Mr.M.Ganesan,
Government Advocate (Crl.Side)

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :- For Anticipatory bail in Crime No.1684 of 2020 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 8 (C) r/w 20 (b), (ii) (b) of NDPS Act, seeks anticipatory bail.

2. Heard both sides.

3.The case of the prosecution is that the petitioner and the other accused were found in possession of 1.5 Kg of Ganja and preparing packets for sale. Hence, the complaint.

4. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would also submit that this is the second anticipatory bail application and the name of the petitioner has not been mentioned in the First Information Report. Only based on the confession statement of the co-accused, his name has been



5. The learned Government Advocate (Crl.Side) would submit that this is the second anticipatory bail application and the petitioner is having two cases, similar in nature. Hence, he opposed to grant anticipatory bail to the petitioner.

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6. It is seen that earlier petition was dismissed by this Court dated 31.12.2020, by observing that *prima facie* materials are available against the petitioner and so, the petitioner is not entitled for discretionary relief of anticipatory bail. This petition has been filed on the ground that there is a change of circumstance.

7. According to the learned counsel for the petitioner, mere presence of a person in the place of occurrence is not an offence. Only on the confessional statement of co-accused, he has been implicated in this case. But reading of the First Information Report shows that the petitioner was also present in the place of occurrence and preparing packets for selling along with co-accused namely, Vasantha, on seeing the police officials, the petitioner/accused ran away from the place of occurrence.

8.A perusal of CD file shows that the officials has given statement to the effect that the petitioner was also preparing packets for selling and moreover, as per the information furnished by the learned Government Advocate (Crl.Side) as well as from the perusal of CD file, it is seen that the petitioner has already involved in two similar type of cases and so, it appears that the petitioner is involved in such offence habitually. So, the petitioner is not entitled for the discretionary relief of anticipatory bail.

9.In view of the above facts and circumstances of the case, this Criminal Original Petition is dismissed.

sd/-
01/02/2021

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

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



TO

1 THE INSPECTOR OF POLICE,
VEDASANDUR POLICE STATION
DINDIGUL DISTRICT.

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

ORDER

IN

CRL OP (MD) No.948 of 2021

Date :01/02/2021

DSS

JM/VR/SAR II/04.02.2021/3P/3C