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

Date : 21/04/2021

PRESENT

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

CRL OP(MD) . No.5691 of 2021

Sakthivel ... Petitioner/Accused

Vs

The State rep.by
Inspector of Police,
Athoor Police Station,
Thoothukudi District.
(Crime No.137 of 2019). ... Respondent/Complainant

For Petitioner : M/s.M.Lingadurai,
Advocate.

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

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

PRAYER :-

For Bail in Crime No.137 of 2019 on the file of the Respondent Police.

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 was arrested and remanded to Judicial Custody on 29.08.2019 for the offences punishable under sections 8(c), 20(b) (ii)(c), 29(1) and 25 of NDPS Act, in Crime No.137 of 2019 on the file of the respondent police. He seeks bail.

3. The petitioner is figuring as sixth accused in the said case. The petitioner as well as the other accused filed individual bail petitions and they were taken up together and dismissed on



4. The order dated 31.08.2020 in Crl.O.P.(MD) No.5306 of 2020 is relevant. It was observed as follows:-

"14. Coming to A6-Sakthivel, it is the specific case of the respondent that when the contraband was transported from Trichy to Tuticorin, it was kept for safe custody for a while in the factory premises being run by the sixth accused-Sakthivel. The specific case of the prosecution is that at the request of Lakshmanan, A6-Sakthivel had kept the contraband in his factory premises on 13.08.2019 and 14.08.2019. The police also have gathered from the call data that there were frequent mobile conversations between A6-Sakthivel and A9-Lakshmanan. A6-Sakthivel is running a bottle washing company in the name of his son Asai Eswaran at Thiruthurai Poondi-Mannarkudi Main Road. While shifting the contraband from his premises, in TATA ACE Van belonging to other Sakthivel along with contraband, a number of empty grade and empty quarter bottles were also loaded. The police have recorded the statements of two of the employees of A6. In view of these materials, I am not in a position to give a finding that A6-Sakthivel is not guilty of the offences in question."

5. In view of the specific finding given by me that I am not in a position to give any finding that the petitioner is not guilty of the offence in question, the second bail petition may not be maintainable. Of course, I had given a direction that the mobile phones and sim cards recovered from the accused will have to be sent to forensic science laboratory for analysis. The petitioners' counsel would argue that no follow up action was taken.

6. It is denied by the learned Government Advocate(Crl. Side). It is pointed out by the learned Government Advocate that an application to conduct further investigation under Section 173(8) of Cr.P.C., was filed. After getting permission, the mobile phones and sim cards were sent to the Forensic Science Lab, Chennai for analysis. The learned Government Advocate(Crl. Side) placed before me a communication dated 09.04.2021 sent by the Assistant Superintendent of Police, Tiruchendur to the Deputy Director, Regional Forensic Science Lab, Chennai, requesting to accord top priority for the said matter. The learned Government Advocate(Crl. Side) states that after receipt of the analysis report from the Forensic Science Lab, Chennai, a supplementary final report will be filed.

7. In any event, in view of the dismissal of the petitioners' earlier criminal original petitions on merits and there being no change in circumstance, I do not find any ground to interfere.



8. This criminal original petition is dismissed.

sd/-
21/04/2021

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/ /2021
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 SUPERINTENDENT,
CENTRAL PRISON, MADURAI
- 2 THE INSPECTOR OF POLICE
ATHOOR POLICE STATION,
THOOTHUKUDI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.5691 of 2021
Date :21/04/2021

SMA/24/04/2021/3P/4C