



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 30/04/2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD). No.6264 of 2021

Elangovan @ Elango

... Petitioner/Accused No.3

Vs

The State

The Inspector of Police,
Sindupatty Police Station,
Madurai District.
(Crime No.38 of 2020)

... Respondent/Complainant

For Petitioner : M/s.Mahendrapathy.S.,
Advocate.

For Respondent : Mr.Kr.Bharathikannan,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory bail in crime no.38 of 2020 on the file of the respondent police

ORDER : The Court made the following order :-

This petition has been filed by the petitioner/A3 seeking anticipatory bail for the alleged offence punishable under Sections 20(b)(ii)(c), 25, 29(1) and 8(c) of the Narcotic Drugs and Psychotropic Substances Act 1985, in C.C.No.29 of 2021 on the file of the Principal District and Sessions Judge (Special Court for EC and NDPS Act Cases), Madurai in Crime No.38 of 2020.

2.It is seen from the submissions made that based on the secret information received by respondent police, on 17.02.2020 at about 01.00 p.m., they conducted a vehicle check up in Usilampatti to Thirumangalam post near Sindhupatty Angalamman Kovil, at that time, two Two-wheelers, bearing Registration No.TN-59-W-4390 and TN-03-R-6748 were driven by the accused namely, Kasimayan(A2) and Murugan (A3) and one Auto bearing Registration No.TN-58-Z-0290 was driven by one Ananth(A1). On seeing the police party, the pillion rider Ilango



escaped from that place. After observing the mandatory procedure, the police searched the accused persons and they are having 6 bags containing 20gms of Dry Ganja, each totally 120 kgs of Ganja was recovered from them. The allegation against this petitioner is that, he was also one of the members of the party who transported the Ganja and he escaped from the scene of occurrence. Hence, the complaint.

3.The learned counsel for the petitioner submitted that the petitioner has not involved in this case and he has been falsely implicated on the basis of the confession statement of the co-accused in this case. Therefore, he seeks anticipatory bail.

4.The learned Government Advocate (criminal side) submitted that the total quantity of Ganja seized is 120 kgs and the same was recovered by the respondent police. He further submitted that the petitioner is having two previous cases, which are similar in nature and hence, he opposed to grant anticipatory bail to the petitioner.

5.The claim of the petitioner is that based on the confession statement of the co-accused, he has been implicated in this case and no recovery was made from him. The confession statement of the co-accused is relevant for the 'discovery of facts' under Section 27 of the Indian Evidence Act and that can be corroborated by corroborative piece of evidence. Therefore, the admissibility of the confession statement of the co-accused cannot be gone into at the this stage. Moreover, the petitioner is having two previous cases, which are similar in nature.

6.It is seen from the allegations made in the FIR that there is a prima facie case made out against the petitioner to show that he was found in possession of 120kg of ganja along with other accused. The ganja seized in this case is of a commercial quantity. The petitioner has not satisfied with the twin conditions for granting bail under Section 37 of the NDPS Act ie., there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

7.In this view of the matter, this Court is not inclined to grant bail to the petitioner. Accordingly, this Criminal Original Petition is dismissed.

Sd/-
30/04/2021

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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 INSPECTOR OF POLICE,
SINDUPATTY POLICE STATION, MADURAI
DISTRICT.
2. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.6264 of 2021

Date : 30/04/2021

VB JC SAR III(21/05/2021) 3P / 3c