



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

Date : 29/07/2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD) . No.9385 of 2021

Krishnan @ KD Krishnan

... Petitioner/Accused No.2

Vs

1. The State through
The Inspector of Police,
Sellur Police Station,
Madurai City
(Crime. No.2716/2020).

...1st Respondent/Complainant.

2. Lakshmi,
Sub-Inspector of Police,
Sellur Police Station,
Madurai.

...2nd Respondents/Defacto Complainant

For Petitioner : M/s.Niranjan.S.Kumar,
Advocate.

For Respondents : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor

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

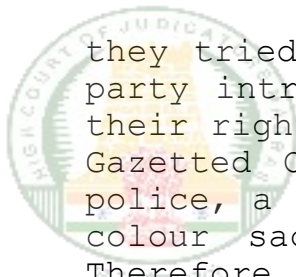
PRAYER :-

For Bail in Crime. No.2716 of 2020 on the file of the
Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A2, who was arrested on 09.12.2020 for the
offences punishable under Sections 8(c), 20(b)(ii)(c), 29(i) of NDPS
ACT 1985 in Crime No.2716 of 2020 on the file of the respondent
police, seeks bail.

2. The case of the prosecution is that on 10.12.2020 about
10.00a.m., the secret informant gave information with regard to the
movement of Narcotic Drugs and Psychotropic Substances to the
defacto complainant. Therefore, with necessary equipment, the
defacto complainant along with police party were waiting behind NTC
hospital. At about 10.15a.m., the informant identified the accused
Jayakumar @ Chatti Kumar and Krishnan @ KD Krishnan and they were
found in possession of white colour sack. On seeing the police,



they tried to escape, but the police apprehended them. The police party introduced themselves to the accused and informed them about their right to be searched in the presence of Judicial Magistrate or Gazetted Officer and on their willingness to be searched by the police, a search was conducted. In a search, it was found the white colour sack possessed by the accused contained 31kg of ganja. Therefore, this case came to be registered.

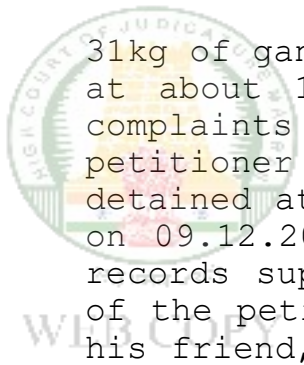
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3. The learned Counsel for the petitioner submitted that the petitioner is innocent and he has been falsely implicated in this case. The police, with an intention to book him under the NDPS Act, registered this false case. He was in Chennai along with the first accused in his niece's house on 09.12.2020. At about 02.00p.m., on 9.12.2020, eight un-uniformed policemen came in a white colour Innova car, trespassed into the house and illegally took the petitioner and first accused. In this regard, the wife of his friend/A1 had sent complaints to the Commissioner of Police, Chennai, the Commissioner of Police, Madurai, the Inspector of Police, Tallakulam Police Station, the Inspector of Police, Thiruneermalai Police Station on 09.12.2020 itself. He has also filed copies of complaints along with postal receipts and track consignment details. After coming to know that her husband was taken by the police, A1's wife had again sent complaints to the Sub-Inspector of Police, Sellur Police Station, the Commissioner of Police, Madurai on 10.12.2020. The copies of these complaints, postal receipts and the track consignment had also been filed for perusal of the Court.

4. It is the submission of the learned Counsel for the petitioner that this case is foisted on 10.12.2020 by illegally detaining and confining the petitioner and his friend Jeyakumar @ Chattikumar on 09.12.2020 at Madras. Then they were brought to Madurai and a stage managed case had been set up falsely against the petitioner and other accused. Therefore, the learned Counsel for the petitioner seeks for release of the petitioner on bail.

5. The learned Additional Public Prosecutor appearing for the State opposes this petition on the ground that final report has been filed in this case. Not only that, this case involves the illegal possession of commercial quantity of ganja. Therefore, the petitioner is not entitled for bail, unless he satisfied the twin conditions contemplated under Section 37 of the NDPS Act for grant of bail.

6. Perusal of the F.I.R., and the materials filed by the learned Counsel for the petitioner in support of his case viz., a copy representation sent by A1's wife to the Commissioner of Police, a copy of the postal receipt along with delivery report, a copy of the representation sent by A1's wife to Sellur Police Station and Madurai City Commissioner of Police, a copy of the postal receipt along with delivery report show that there is contradictory and diametrically opposite version about what had happened on 10.12.2020. According to the case of the prosecution in this case, the petitioner along with other accused were found in possession of



31kg of ganja behind NTC hospital from the possession of the accused at about 10.15a.m., on 10.12.2020. However, the perusal of the complaints sent by A1's wife dated 09.12.2020 show that the petitioner along with friend was said to have been illegally detained at Chennai from the house of A1's niece Maha at 02.00p.m., on 09.12.2020. The complaints, postal receipts, track consignment records support this allegation of the petitioner. It is the case of the petitioner that after illegally detaining the petitioner and his friend, the police had brought them to Madurai and foisted this case. Thus there are two versions available. One of the versions is that the petitioner along with co-accused were found with illegal possession of commercial quantity of ganja at 10.15a.m. behind NTC hospital, Madurai. Another version is that the petitioner and the co-accused were arrested on 09.12.2020 at about 02.00p.m. at Chennai and brought to Madurai and this case is foisted. Out of these versions, which version is true is the subject matter of trial. However, the petitioner has made out a *prima facie* case to raise a serious suspicion in the case of the prosecution by producing complaints dated 09.12.2020 supported by postal receipts, track consignment to show that the petitioner along with his friend had been illegally detained on 09.12.2020 and then, brought to Chennai and this case is foisted.

8. In view of this serious doubt created on the very basis of the case filed by the prosecution, this Court is of the considered view that the petitioner has made out a *prima facie* case for making this Court to believe that he is not guilty of the offence and that he is not likely to commit any such offence while on bail. With regard to previous cases pending against the petitioner, it is true and as admitted by the petitioner himself, there are previous cases pending against him. The details of the previous cases produced by the prosecution do not show that any previous case registered under NDPS Act. Therefore, this Court is inclined to grant bail to the petitioner with certain conditions:

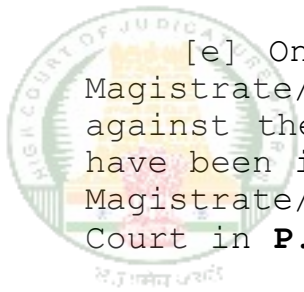
9. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Principal Special Judge for EC & NDPS Act Cases, Madurai and on further condition that:

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the respondent police daily at 10.30 am., until further orders.

[c] the petitioner shall not abscond either during investigation or trial.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.



[e] 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]**.

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
29/07/2021

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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 PRINCIPAL SPECIAL JUDGE FOR EC & NDPS ACT CASES
MADURAI.
- 2 THE SUPERINTENDENT, CENTRAL JAIL, MADURAI.
- 3 THE INSPECTOR OF POLICE, SELLUR POLICE STATION, MADURAI CITY.
- 4 SUB-INSPECTOR OF POLICE, SELLUR POLICE STATION, MADURAI.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.NIRANJAN.S.KUMAR Advocate SR.No.4917

ORDER
IN
CRL OP(MD) No.9385 of 2021
Date :29/07/2021

AM/VR/SAR-4/29.07.2021 :4P/7C