



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 02/11/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) No.11612 of 2021

A.Vicky @ Vignesh

... Petitioner/Accused No.2

Vs

The State of Tamil Nadu
Rep by The Sub Inspector of Police,
NIB CID Police Station
Nagapattinam,
Nagapattinam District.
Crime No.6 of 2021]

...Respondent/Complainant

For Petitioner : Mr.C.K.M.Appaji, Advocate

For Respondent : MR.HASAN MOHAMMED JINNAH,
Special Public Prosecutor Assisted by
Mr.T.Senthil Kumar
Additional Public Prosecutor

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

PRAYER :-

For bail in Crime No.6 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner is the second accused in Crime No.6 of 2021 and he was arrested and remanded to judicial custody on 03.03.2021.

2.The prosecution case is that the respondent police, on a secret information intercepted a Tempo Traveller Ambulance, bearing registration No.TN-09-AE-7327 and found that 28 kgs of Ganja was illegally transported. Hence, the complaint.

3.Learned Counsel for the petitioner submitted that totally there are four accused and the petitioner is arrayed as second accused. Except, this petitioner, all other accused were enlarged on statutory bail by the trial Court under Section 167(2) Cr.P.C. The petitioner is inside the prison for the past eight months and final report is yet to be filed by the respondent. Therefore, he is also entitled for statutory bail under Section 167(2) Cr.P.C.



4. Learned Special Public Prosecutor submitted that the petitioner along with other accused have illegally possessed 28 kgs of Ganja in Ambulance Freezer box. He fairly submitted that final report in this case is yet to be filed and the co-accused were released on statutory bail.

5. The fact remains that the co-accused have been granted bail by the trial Court on the ground that the final report has not been filed, even after the lapse of 180 days. Even today it is represented that the final report is not yet filed. Here, the petitioner is in jail for more than 220 days and as such, he is also entitled for statutory bail under Section 167(2) CrPC.

6. Accordingly, this petition is allowed and the petitioner is directed to be released on bail on his executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the learned the learned Additional District and Sessions Judge, Special Court under E.C.Act cases, Thanajvur and on further conditions that:

[a] the persons who are giving sureties should be respectable persons in their locality, either Government Servants or elected people representatives or the persons who are having permanent business establishments and the sureties shall file an affidavit before the trial Court, by ensuring that the petitioner will not indulge in any other offence in future and he will be available for the entire trial;

[b] the sureties shall affix their photographs and left thumb impression in the surety bond and the Judge may obtain a copy of their Aadhaar card or bank pass book to ensure their identity;

[c] the petitioner shall not misuse the liberty granted to him by this Court and if the petitioner is involved in any other offence, the respondent police shall inform the same to the concerned Court. The concerned Court shall impound the sureties amount;

[d] the petitioner shall report before the respondent Police daily at 10.30 a.m. until further orders;

[e] the petitioner shall file an undertaking affidavit before the respondent Police as well as before the trial Court that he will not indulge in any other offence in future;

[f] the petitioner shall not abscond during the trial;

[g] the petitioner shall not tamper with the evidence or witness during trial;

[h] On breach of any of the aforesaid conditions, the learned Judge/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 is released on bail by the learned Judge/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

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



7. The Superintendent of Police concerned is directed to look into the case and find out the reason for not filing the final report and take appropriate action.

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Sd/-
02/11/2021

/ TRUE COPY /

/ /2021

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

dsk/gk

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 ADDITIONAL DISTRICT AND SESSIONS JUDGE,
SPECIAL COURT UNDER E.C. ACT CASES,
THANJAVUR
2. THE SUB INSPECTOR OF POLICE,
NIB CID POLICE STATION
NAGAPATTINAM,
NAGAPATTINAM DISTRICT.
3. THE OFFICER INCHARGE,
SUB JAIL,
PUDUKOTTAI.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

- 1 THE SUPERINTENDENT OF POLICE,
NIB CID,
CHENNAI.
- 2 SPECIAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

ORDER
IN
CRL OP(MD) No.11612 of 2021
Date : 02.11.2021