



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 24/09/2021
PRESENT

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

CRL OP(MD). No.13819 of 2021

P.Sakthivel

... Petitioner/Accused No.6

Vs

The State Rep. by
The Inspector of Police,
Athoor Police Station,
Thoothukudi District.
Crime No.137 of 2019.

... Respondent/Complainant

For Petitioner : Mr.T.S.R.VENKATARAMANA, Advocate
for Mr.R.ANAND, Advocate.

For Respondent : Mr.E.ANTONY SAHAYA PRABAKAR,
Additional Public Prosecutor(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 Additional Public Prosecutor appearing for the respondent.

2. The petitioner is arrayed as accused No.6. He was arrested and remanded to Judicial Custody on 30.08.2019 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. His earlier petitiones were dismissed by this Court. The petitioner has renewed his attempt by citing the grant of bail in favour of the fourth accused vide order dated 13.08.2021 in CrI.O.P.(MD)No.9998 of 2021.

3. The case involves seizure of 294 Kgs of ganja. When the police personnel attached to the respondent police station were on their usual rounds on 21.08.2019 at about 3.00 a.m., at Athoor to Seranthapoomangalam road near V.V.Mineral Company, they intercepted a vehicle and found the contraband hidden therein.

4.The case of the prosecution is that the contraband was

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transported from Thanjavur. En-route, the contraband was allegedly stored for a week in the factory premises belonging to the petitioner herein. The petitioner is said to have done so in return for a sum of Rs.25,000/-. In support of this allegation, except the confession of the petitioner himself and the co-accused, there is absolutely no other material.

5. It is too well settled that on the strength of such statement of confession, it is not possible to render a finding on the guilt of the accused. Since there is no other material to link the petitioner to the crime in question, I have to necessarily give a finding that the petitioner is not likely to commit the offence in question. The petitioner has thus crossed one barrier erected by Section 37 of the NDPS Act. I have to now consider if the petitioner is likely to commit any offence after coming out on bail. This question again need not detain me because the petitioner is not having any previous case. He has never come under any adverse police case on any occasion. Therefore the petitioner is not likely to commit any offence after coming out on bail. Thus, both the conditions set out in Section 37 of the NDPS Act stands fulfilled in this case. The petitioner is therefore granted bail. I make it clear that the reasons which have been impelled me to grant bail will not enure to the petitioner's advantage during trial. The learned trial judge will consider the entire evidence adduced by the prosecution and pronounce on the guilt or innocence of the petitioner.

6. In view of the above, I am inclined to enlarge the petitioner on bail with certain conditions. 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 Additional Principal Special Sessions Judge for EC & NDPS Act Cases, Madurai and on further conditions 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 Inspector of Police, Vedaranyam Police Station daily at 10.30 a.m., until further orders.

[c] 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].

sd/-

24/09/2021

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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 ADDITIONAL PRINCIPAL SPECIAL SESSIONS JUDGE
FOR EC & NDPS ACT CASES, MADURAI.
2. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
3. THE INSPECTOR OF POLICE,
ATHOOR POLICE STATION,
THOOTHUKUDI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE INSPECTOR OF POLICE,
VEDARANYAM POLICE STATION,
VEDARANYAM.

ORDER

IN

CRL OP(MD) No.13819 of 2021
Date : 24/09/2021

SA/PN/SAR.3/27.09.2021/3P/6C