



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 20.10.2021
PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL.O.P (MD) No.14416 of 2021

Jayaraman @ Sony

... Petitioner/Sole Accused

Vs

State represented by
The Sub Inspector of Police,
Town Police Station, Pudukottai District.
[In Crime No.204 of 2021] ... Respondent/Complainant

For Petitioner : Mr.G.Mathavan, Advocate.
For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor

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

PRAYER :-For Bail in Crime No.204 of 2021 on the file of Respondent Police.

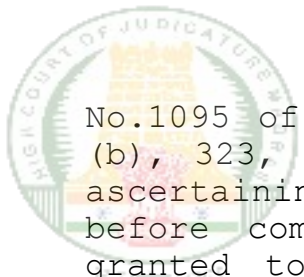
ORDER : The Court made the following order :-

The petitioner, accused arrested for the offence under Section 328 IPC and Sections 21(a) and 27(a) of NDPS Act in Crime No.204 of 2021 seeks bail.

2.The occurrence in this case in fact had taken place on 06.03.2021. When the petitioner attempted to escape on seeing the police patrol party, the police surrounded, arrested him and recovered five tidal tablets and a syringe from him and remanded him to judicial custody. Subsequently, he was granted bail by the learned Principal District and Sessions Judge, Pudukottai on 22.03.2021. Thereafter the petitioner has involved in subsequent offences in Crime No.1095 of 2021 and therefore, the learned Principal District and Sessions Judge, Pudukottai following the dictum laid down by the Hon'ble Apex Court that the petitioner has indulged in further offence by misusing the liberty granted to him, cancelled by the bail granted to the petitioner in Crime No.204 of 2021 by order dated 29.07.2021. In pursuance of the same, this petitioner was arrested and remanded to judicial custody on 30.07.2021 and now he is in judicial custody for the past 80 days.

2.The learned Counsel for the petitioner submits that the petitioner was already granted bail in this case. However, now

<https://hcservices.mca.gov.in/hcservices/>



No.1095 of 2021 for the offence under Sections 147, 148, 341, 294 (b), 323, 324 and 506(ii) IPC. The learned Sessions Judge, without ascertaining whether the case has been foisted one or not, even before completion of the investigation, has cancelled the bail granted to this petitioner in Crime No.204 of 2021. He further submits that the petitioner was in jail from 06.03.2021 to 22.03.2021 and thereafter, is in jail from 30.07.2021 till date. He further submits that this petitioner copy from petition.

3.The learned Additional Public Prosecutor submits that this petitioner after coming out on bail in Crime No.204 of 2021 has involved in subsequent offence and hence, the learned Sessions Judge, has cancelled the bail. Therefore, he opposed the grant of bail.

4.This Court has paid its anxious consideration to the rival submission and perused the materials placed on record.

5.The case of the prosecution in Crime No.204 of 2021 is that the police during the patrol found this petitioner attempting to escape on seeing the police party, surrounded him, arrested him and recovered five tidal tablets and a single use syringe.

6.According to the prosecution, the tidal tablets recovered from this petitioner contains diclofenac Sodium, which is a chemical used in painkiller pills. Whoever possesses, sells or uses any drug is an offence under Section 21 of the NDPS Act, depending upon the quantity of the drug. Whoever consumes any narcotic drug or psychotropic substance shall be punishable upto one year as per Section 27 of the said Act. In this case the petitioner was in possession of five tidal tablets, which contains certain narcotic substances as notified by the Central Government for medicinal purpose, has been misused by this petitioner.

7.Considering the quantity of the recovered tidal tablets and the period of incarceration, the learned Sessions Judge, has already enlarged him bail in Cr.M.P.NO.1173 of 2021, dated 22.03.2021. However, by misusing the liberty granted to him, this petitioner has indulged in further offence in Crime No.1095 of 2021 and therefore, the bail granted to the petitioner was cancelled by the learned Sessions Judge, by order dated 29.07.2021 in Cr.M.P.No.2505 of 2021 and consequently, he was arrested on 30.07.2021.

8.Though the case was registered on 06.03.2021 that this petitioner was in possession of five tidal tablets, which contains narcotic substances or psychotropic substances, specified by the Central Government, the investigation agency has not proceeded further with the investigation to find out as to the source from where the petitioner got these tablets. No doubt these tablets are used as painkillers in medical filed, strictly on prescription by the doctors. However, persons like this petitioner are able to get



9.The learned Public Prosecutor has pointed out that the students fall prey to such things. It is seen that younger generations are innovating these types of sedations. Therefore, duty is cast upon the Controller Of Drugs, to sensitize the authorities and ensure that these drugs consisting of narcotic or psychotropic substance, are not easily available to persons like this petitioner, by issuing necessary circulars to all the pharmacies referring the provisions of law and periodical check up have also to be made by the respective Assistant Controller of Drugs of the respective regions and ensure that this drugs psychotropic substances are used only for medicinal purposes.

10.This petitioner is in jail for the past 90 days including the period from 06.03.2021 to 22.03.2021. Considering the period of incarceration and the quantity of drugs involved in this case, this Court is inclined to grant bail to this petitioner, however, with stringent conditions.

11. Accordingly, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.25,00,000/- (Rupees Twenty Five Thousand Only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Pudukottai, Pudukottai District and on further conditions that:

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

[b] The petitioner shall not misuse the liberty granted to the petitioner 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;

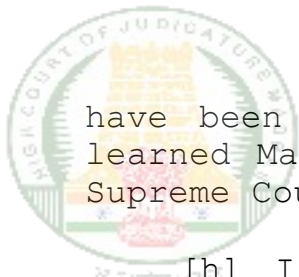
[c] the petitioner shall report before the respondent Police daily at 10.30 a.m. until further orders;

[d] 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;

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

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

[g] 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 is 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]**.

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

sd/-

20/10/2021

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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 JUDICIAL MAGISTRATE NO.I,
PUDUKKOTTAI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
PUDUKKOTTAI DISTRICT.
- 3 THE SUB INSPECTOR OF POLICE
TOWN POLICE STATION, PUDUKKOTTAI DISTRICT.
- 4 THE OFFICER INCHARGE,
DISTRICT PRISON, PUDUKKOTTAI.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE CONTROLLER OF DRUGS,
CHENNAI.

ORDER

IN

CRL OP(MD) No.14416 of 2021

Date :20/10/2021

DSK

MK/SKN/SAR.I/20.10.2021/4P/7C