



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 29/10/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . No.16422 of 2021

Ganapathy ... Petitioner/Sole Accused

Vs

The State rep. by
The Inspector of Police,
Mayiladuthurai Police Station,
Mayiladuthurai District
(Crime No. 1718 of 2021).

... Respondent/Complainant

For Petitioner : Mr.Ramakrishnan.K.K.,
Advocate.

For Respondent : Mr.R.Meenakshi Sundaram,
Additional Public Prosecutor

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

PRAYER :-

For Anticipatory Bail in Crime No. 1718 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 8(c), r/w 20(b)(ii) (B) of NDPS Act, in Crime No.1718 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner was in possession of 1.100 Kgs of Ganja. Hence, the complaint.

3.The learned counsel for the petitioner submitted that the

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



petitioner is an innocent person and he has been falsely implicated in this case. Therefore, he seeks anticipatory bail to the petitioner.

4. When the matter was taken up for hearing on 27.10.2021, the learned Additional Public Prosecutor sought time for filing report, for that purpose, this case was posted on 29.10.2021.

5. Today (i.e) on 29.10.2021, when the matter was taken up for hearing again the learned Additional Public Prosecutor sought time for filing report and he vehemently opposed to grant anticipatory bail to the petitioner on the ground that the petitioner is having two similar cases to his credit.

6. The learned counsel for the petitioner has filed a typed set of papers along with the order passed by the learned Additional District Judge, Special Court under Essential Commodities Act, Thanjavur in CrI.M.P.No.874 of 2021, which is the bail application filed by the petitioner under Section 539 of Cr.P.C for grant of bail in Crime No.1556 of 2021.

7. On 04.10.2021, the bail was granted by the learned Additional District Judge, Special Court under Essential Commodities Act, Thanjavur, to the petitioner, on the ground that the contraband seized is in-between quantity, the petitioner has no previous case in similar nature and also the co-accused has been released on bail.

8. It appears that till 04.10.2021, the petitioner is not an accused other than in Crime No.1556 of 2021.

9. The petitioner is accused in Crime Nos.94 and 1718 of 2021. The respondent police has not reported the same before the learned Additional District Judge, Special Court under Essential Commodities Act, Thanjavur, at the time of hearing the bail application.

10. The petitioner is also an accused in Crime No.1556 of 2021 and he was arrested. However, the respondent police has not taken any steps to remand the petitioner in Crime No.1718 of 2021.

11. Considering the facts and circumstances of the case and the allegation levelled against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner.

12. Accordingly, this criminal original petition is allowed and the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Additional District Judge/Presiding Officer Special Court under Essential Commodities Act, Thanjavur District, on condition that the petitioner shall execute 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 Magistrate concerned and on further conditions that:

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

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

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

[d]the petitioner shall not abscond 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 229-A IPC.

sd/-
29/10/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TTA

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 JUDGE/PRESIDING OFFICER
SPECIAL COURT UNDER ESSENTIAL COMMODITIES ACT,
THANJAVUR DISTRICT.

2. THE INSPECTOR OF POLICE,
MAYILADUTHURAI POLICE STATION,
MAYILADUTHURAI DISTRICT.

3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.K.K.RAMAKRISHNAN, Advocate (SR-7762[I] dated
01/11/2021)

ORDER

IN

CRL OP(MD) No.16422 of 2021

Date :29/10/2021

RK/JC/SAR-I (16/11/2021) 4P 5C