



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 14/12/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD).Nos.18642 & 18910 of 2021

Regu ... Petitioner/Accused No.7
in CRL OP(MD)No.18642 of 2021

Shine Jose ... Petitioner/Accused No.2
in CRL OP(MD)No.18910 of 2021

Vs

State Rep.by
The Inspector of Police,
Kadaiyalumoodu Police Station,
Kanyakumari District.
Cr.No.114/2020

... Respondent/Complainant in both Crl.OPs

For Petitioner : M/s.Subash Babu M,
Advocate.
in CRL OP(MD)No.18642 of 2021
For Petitioner : Mr.B.Jameel Arasu
Advocate.
in CRL OP(MD)No.18910 of 2021
For Respondent : Mr.P.Kottaisamy,
Government Advocate (Crl.Side)
(in both Crl.OPs)

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

COMMON PRAYER :-

For Bail in Crime No. 114 of 2020 on the file of the respondent Police.

COMMON ORDER : The Court made the following Common order :-

Heard the learned counsel appearing for the petitioners in both Criminal Original Petitions and the learned Government Advocate(Crl. Side) appearing for the respondent.

2.The petitioners/accused Nos.7 & 2, who were arrested on 07.10.2020 and 08.10.2020, for the alleged offence punishable under Sections 8(c) r/w 20(b) (ii) (c) and 25 of NDPS Act in Crime No.114 of 2020 on the file of the respondent police, seek bail.



3.The case of the prosecution is that on secret information, the respondent police went to the occurrence place. The informer had shown three two wheelers and when the police officials waylaid the above vehicles, the first accused, who was a pillion rider, escaped from the bike, on seeing the police officials. However, the police officials caught hold of the other six accused persons and recovered totally 28 kgs of ganja from them. The petitioners herein are the accused Nos.7 & 2 respectively.

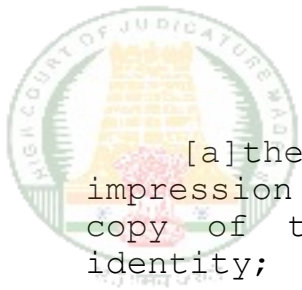
4.The Petitioner/Accused No.7 in CRL OP(MD)No.18642 of 2021 already moved anticipatory bail in Crl.O.P(MD) No.16841 of 2021, which came to be dismissed on 01.11.2021, considering the conduct of the petitioner in suppressing the earlier application filed by him.

5.The Petitioner/Accused No.2 in CRL OP(MD)No.18910 of 2021 already moved anticipatory bail in Crl.O.P(MD) No.16542 of 2021, which came to be dismissed on 28.10.2021, considering the fact that the contraband weighing 28 kgs of ganja has been recovered from the petitioner and in view of the provisions under Section 37 of NDPS Act.

6.Now, the learned counsel for the petitioners has come forward with these present Criminal Original Petitions on the ground that the petitioners were in possession of 8 kgs and 10 kgs of ganja alone at the time of occurrence and the entire contraband has not been recovered from the petitioners, as stated by the prosecution. In order to substantiate his contention, he relied upon the separate Seizure Mahazars prepared by the respondent police. According to the learned counsel for the petitioners, the entire contraband was recovered in the same place, simultaneously, but not from the petitioners alone. The petitioners are in jail from 07.10.2020 and 08.10.2020 respectively. He further submits that the co-accused have been released on statutory bail.

7.Taking into consideration the period of incarceration of the petitioners i.e, both the petitioners are in jail for more than a year and the fact that the co-accused have been released on bail and taking into consideration the separate Mahazars prepared by the respondent police that 8 kgs alone recovered and also taking into account the change of circumstances, this Court is inclined to grant bail to the petitioners, however, with stringent conditions.

8.Accordingly, these Criminal Original Petitions are allowed and the petitioners are ordered to be released on bail on their executing a bond for a sum of Rs.1,00,000/-(Rupees one lakh only) with two sureties each for a like sum to the satisfaction of the learned Additional District and Sessions Judge/Presiding Officer, Special Court for E.C and 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 learned Judge may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

[b] the petitioners shall report before the concerned Court regularly without any fail.

[c] the petitioners shall not abscond during the trial;

[d] the petitioners shall not tamper with the evidence or witness during trial;

[e] On breach of any of the aforesaid conditions, the learned Judge/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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]**.

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

9. Considering the fact that the crime is of the year 2020, there shall be a direction to the concerned trial Court to process and conclude the trial, as expeditiously as possible, preferably, within a period of six months from the date of receipt of a copy of this order.

sd/-
14/12/2021

/ TRUE COPY /

/ /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 Additional District and Sessions Judge/Presiding Officer,
Special Court for E.C and NDPS Act Cases,
Madurai

2.The Superintendent,
Central Prison,
Palayamkotati.

3.The Inspector of Police,
Kadaiyalumoodu Police Station,
Kanyakumari District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1. CC to M/S.SUBASH BABU M Advocate SR.No.9225

+1. CC to M/S.B.JAMEEL ARSU Advocate SR.No.9275

ORDER

IN

CRL OP(MD) Nos.18642 & 18910 of 2021

Date :14/12/2021

RS/PN/SAR3(14.12.2021) 4P-7C