



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Dated: 23/12/2021

PRESENT

The Hon'ble Mr.Justice G.ILANGO VAN

Cr1.OP(MD)No.18666 of 2021

Sakthi

... Petitioner/Accused No.3

Vs.

The State rep by
The Inspector of Police,
NIB CID,
Madurai,
(In Crime No.29 of 2021)

... Respondent/Complainant

For Petitioners : M/s.C.Mayil Vahana Rajendran, Advocate

For Respondent : M/s.R.Meenakshi Sundaram
Additional Public Prosecutor

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

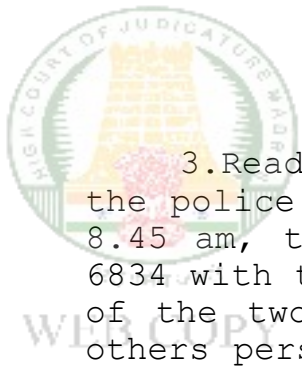
PRAYER :-

For Anticipatory Bail in Crime No.29 of 2021 on the file of the Respondent Police.

COMMON ORDER : The Court made the following order :-

The petitioners, who has arrayed as A3 apprehending arrest at the hands of the respondent police for the offences punishable under sections 8(c), r/w 20(b), (ii)(B), 25, 27(a) and 29(1) of NDPS Act, in Crime No.29 of 2021 on the file of the respondent police, seeks anticipatory bail.

2.The petitioner is facing the charges for the offences under sections 8(c), r/w 20(b), (ii)(B), 25, 27(a) and 29(1) of NDPS Act. This petitioner is A3.



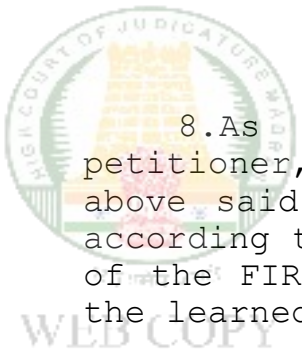
3. Reading of the FIR shows that on 23/06/2021 at about 7.45 am, the police team was on their patrol duty and at that time, at about 8.45 am, they found a two wheeler bearing registration No.TN-57-K-6834 with three persons. When they intercepted, one of the occupants of the two wheeler, escaped from the place of occurrence and two others persons nabbed and on inspection and search, they found that they were carrying 1.800 kgs of ganja. On the above said search, further proceedings have been initiated and case has been registered.

4. Seeking anticipatory bail, this petitioner, who has arrayed as A3 has filed this petition on the ground that he is not involved in the offence and only based on the confession statement of the co-accused, he has been arrayed as an accused and A1 has been released on bail.

5. The learned Additional Public Prosecutor would submit that the petitioner is involved three previous cases. One for the offence under section 387 IPC and 109 Cr.P.C and another 188 IPC case. Even though the offences under section 109 Cr.P.C and 188 IPC can be considered as punishable offence, in so far as the offence 387 IPC is concerned, it is grievous in nature.

6. When the petitioner is facing the case under section 387 IPC, the discretionary relief of anticipatory bail cannot be extended to the petitioner/A3, even though the A1 was released on bail after arrest. Even though in the place of occurrence, the contraband has been seized that benefit cannot be extended to this petitioner considering the antecedent. So learned counsel appearing for the petitioner would submit that on 23/06/2021, a case has been registered in Crime No.327 of 2021, wherein it is stated that on 26/06/2021 at about 11.00 am, on a secrete information, the police team went to the place of occurrence and this petitioner was found in possession of 1.150 kgs of Ganja and this case has been registered on 26/06/2021, whereas this case has been registered, on 23/06/2021, which is prior to the above said occurrence. In crime No.327 of 2021, when it has been mentioned that he has escaped from the place of occurrence, when the police was intercepted. According to the petitioner, if really, the petitioner is also involved in this case, the police ought to have arrested this petitioner also in so far as arrest in the case namely Crime No.327 of 2021.

7. But according to the learned counsel appearing for the petitioner, the petitioner was granted bail on 26/07/2021. So according to him, this is purely false case. Even though the petitioner is involved in the above said 387 IPC offence, from the facts narrated above, it is seen that except the confession statement of the co-accused, no other material has been collected so far to implicate this petitioner in this offence.



8.As pointed by the learned counsel appearing for the petitioner, the police ought to have arrested the petitioner in the above said crime also. So the failure on the part of the police, according to me, creates doubt about the genuineness of the contents of the FIR. This court is in full agreement with the argument of the learned counsel appearing for the petitioner.

9.Considering the quantity of the contraband and the contraband which is involved in this case has also been seized from the from the co-accused this and major portion of the investigation is over, no custodial interrogation of the petitioner is required in this case. So, this court inclined to grant anticipatory bail to the petitioner/A3 with certain conditions.

10.Accordingly, the petitioner/A3 is ordered to be released on bail in the event of arrest or on his appearance before the learned Principal Special Court for EC and NDPS Act Cases, Madurai and 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 Judge concerned and on further condition that the petitioner shall appear before the respondent police daily at 10.00 am until further orders. The petitioner shall comply with the conditions stipulated under Section 438 Cr.P.C scrupulously. The petitioner shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail will stand dismissed. If any case is registered against the petitioner in the earlier offence or any other offences, the anticipatory bail petition shall stand cancelled automatically without reference to this court.

Sd/-
23/12/2021

/ TRUE COPY /

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

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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.



1. THE PRINCIPAL SPECIAL COURT
FOR EC AND NDPS ACT CASES, MADURAI.

2. THE INSPECTOR OF POLICE,
NIB CID, MADURAI.

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

+1. CC to M/S.MAYILVAHANA RAJENDRAN C Advocate SR.No.9782

ORDER
IN
CRL OP(MD) No.18666 of 2021
Date :23/12/2021

SP/CN/SAR IV/29/12/2021/4P/5C