



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Twenty Eighth day of March Two Thousand Twenty Two

PRESENT

The Hon`ble Dr Justice G. JAYACHANDRAN

CRIMINAL ORIGINAL PETITION No.6389 of 2022

IN CALENDAR CASE NO.139 of 2019

(On the file of Special Judge, Additional Special Court for exclusive trial of cases under NDPS Act, Chennai)

P.SIVAKUMAR

[PETITIONER / ACCUSED]

Vs

THE INTELLIGENCE OFFICER
NARCOTICS CONTROL BUREAU,
CHENNAI ZOHAL UNIT,
CHENNAI-600 077.

[RESPONDENT]

For Petitioner : M/S.M.HUSSAINI BASHA Advocate

For Respondent : MR.N.P.KUMAR, Special public Prosecutor
for NCB Cases

PETITION FOR BAIL 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner who was arrested and remanded to judicial custody on 09.03.2019 for the alleged offences under Sections 8(c) r/w 22, 28 and 29 of the NDPS Act in R.R.No.3 of 2019 seeks bail.

2. The case of the prosecution is that on 08.03.2019 when the respondent had intercepted an auto rickshaw bearing Regn.No.TN-07-R-4064, they found that the petitioner along with other accused were transporting 460 gms of Methamphetamine. Hence, the complaint.

3. The learned counsel for the petitioner submits that the petitioner herein was arrested on 09.03.2019 for the alleged possession of 460 gms of Methamphetamine while it was transported in an auto.



4. According to the prosecution, this petitioner along with one Ziaul Haque had transported the contraband. Based on the specific information, the auto was intercepted and the first accused Ziaul Haque who had in possession of carton box was along with the petitioner who is the driver and who had transported the contraband knowingly for delivery to another accused and A3 was also arrested.

5. The learned counsel for the petitioner submits that in the cross examination certain lapse of mandatory provision has been elucidated from the presiding officer. Therefore, the petitioner is entitled for bail.

6. The learned Government Advocate (Crl.Side) in response to the said submission would submit that the trial was already commenced and both chief and cross examination of PW1 was completed. Regarding non mentioning of seizure of the auto in the mahazar, he further submits that due to oversight, the concerned Officer might have omitted to mention the same in the list of articles seized and produced before the Magistrate under the seizure Mahazar but the same was produced before the Remand Magistrate along with accused and contraband.

7. According to this Court, since certain points which are now elucidated during the cross examination of witnesses and considered as the favourable points for the accused/petitioner, are to be canvassed at the end of the trial. These are all not points for consideration for granting bail since this Court does not find any violation of mandatory provision and contradiction elucidated during the cross-examination of PW1 also does not give prima facie opinion to this Court that this petitioner is not guilty of the offence. This Criminal Original Petition is dismissed.

-sd/-
28/03/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SPECIAL JUDGE,
ADDITIONAL SPECIAL COURT FOR EXCLUSIVE TRIAL
OF CASES UNDER NDPS ACT, CHENNAI.



2 THE INTELLIGENCE OFFICER
NARCOTICS CONTROL BUREAU,
CHENNAI ZOHAL UNIT,
CHENNAI-600 077.

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.M.HUSSAINI BASHA Advocate on payment of necessary
charges

CRL OP.6389/2022

Date :28/03/2022

JPA 08/04/2022