



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 24.01.2022

WEB COPY

PRESENT

The Hon`ble Mr.Justice **K.MURALI SHANKAR**

CRL OP(MD). No.971 of 2022

Karthick @ Sullan Karthick ... Petitioner/ Accused No.13

Vs

State represented by
The Inspector of Police,
Koodal Pudur Police Station, Madurai.
(Crime No.1388 of 2020)

... Respondent/ Complainant

For Petitioner : Mr.V.Chandrapandi
Advocate.

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

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

PRAYER :-For Bail in Crime No.1388 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/A.13, who was arrested and remanded to judicial custody on 08.11.2020 for the offences punishable under Sections 8 (c), 20(b)(ii)(c) and 29(1) of NDPS Act in Crime No.1388 of 2020, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 05.09.2020 at about 03.00 p.m., when the respondent police was on regular surveillance duty in the area of the first accused, they found that near the house of the first accused, the first accused and 15 members were found with white color gunny bag and on seeing the police, they fled away from the spot and that the police chased and arrested A1 to A3 and seized the contraband of 22 kgs of Ganja from them. Hence, the complaint.

3.The petitioner's case is that he is innocent, that he has not committed any offence as alleged by the prosecution, that there was no recovery from the petitioner, that the petitioner was falsely implicated only on the basis of the alleged confession statement



taken from the co-accused and that the petitioner is not having any previous case for similar offence.

4.The learned Additional Public Prosecutor would submit that there are totally 15 accused, that the contraband seized is of commercial quantity, that the respondent after completing investigation, has filed the charge sheet before the jurisdictional Court and the same was taken on file in C.C.No.120 of 2021 and that the petitioner is having 5 previous cases for the offences under IPC.

5.When the petitioner has moved his bail application earlier in Crl.O.P.(MD)No.17222 of 2021, considering the submission of the learned Additional Public Prosecutor that Non-Bailable Warrants were pending against A5 and A6 in C.C.No.120 of 2021, this Court, directing the respondent police to execute the warrant pending against A5 and A6 and/or take necessary steps to split up the case as against A5 and A6, dismissed the petition.

6.The learned Additional Public Prosecutor would further submit that A5 was in judicial custody in connection with the murder case and on P.T. Warrant he was produced before the concerned Court and he was remanded to the judicial custody so far as the present case is concerned and that Non-Bailable Warrant against A6 was executed and he was also arrested and is in judicial custody and that the case is pending for trial.

7.The learned counsel for the petitioner would further submit that this Court in Crl.O.P.(MD)No.12442 of 2021 has granted bail to the co-accused No.4 and hence, the petitioner may be granted bail.

8.As rightly contended by the learned counsel for the petitioner, admittedly, there was no recovery from the petitioner and there is no evidence to show that the petitioner was present at that time in the scene of occurrence. Moreover, though the petitioner is having previous cases for the offence under IPC, he is not having any offence under NDPS Act.

9.Considering the above facts and circumstances of the case and also the fact that the petitioner is not having any previous case under NDPS Act, this Court is satisfied that there are reasonable grounds for believing that the petitioner is not guilty of such offence and that he is not likely to commit any such offence, after coming out on bail, as contemplated under Section 37 of NDPS Act. Hence, this Court is inclined to grant bail to the petitioner subject to the following conditions:

10.Accordingly, the petitioner is ordered to be released on bail on their executing a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) with two sureties each for a like sum to the satisfaction of the learned II Additional District Judge for NDPS



(i) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

(ii) the petitioner shall report before the respondent police daily at 10.30 a.m. in all working days, until further orders.

(iii) the petitioner shall not tamper with evidence or witness.

(iv) the petitioner shall not abscond during trial.

(v) 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].

(vi) If the accused / petitioner thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-

24/01/2022

/ TRUE COPY /

24/01/2022

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 II ADDITIONAL DISTRICT JUDGE FOR NDPS CASES,
MADURAI.

2 THE INSPECTOR OF POLICE
KODAL PUDUR POLICE STATION, MADURAI.

3 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

ORDER IN

CRL OP(MD) No.971 of 2022

Date : 24/01/2022

CSM

MK/JM/SAR.III/25.01.2022/3P/5C

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