



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 15.02.2022

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PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.1396 of 2022

1. Mottaimani @ Manikandan
S/o.Udhayakumar
2. Mani @ Manikandan
S/o.Kaverymani

... Petitioners/Accused 7 & 14

Vs

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

... Respondent/Complainant

For Petitioners : Mr.M.Kannan
Advocate.

For Respondent : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

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

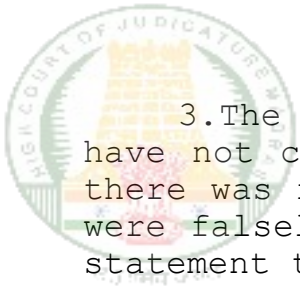
PRAYER :-

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

ORDER : The Court made the following order :-

The petitioners 1 and 2/accused 7 and 14, who were arrested and remanded to judicial custody on 08.09.2020 and 10.09.2020 respectively for the offences punishable under Sections 8(c) r/w 20(b)(ii)(c) and 29(1) of NDPS Act in Crime No.1388 of 2020, on the file of the respondent police, seek 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 petitioners' case is that they are innocent, that they have not committed any offence as alleged by the prosecution, that there was no recovery from the petitioners and that the petitioners were falsely implicated only on the basis of the alleged confession statement taken from the co-accused.

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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 first petitioner is having 3 previous cases and the second petitioner is having 6 previous cases.

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

6.Considering the above facts and circumstances of the case and also the fact that the petitioners are not having any previous cases under NDPS Act, this Court is satisfied that there are reasonable grounds for believing that the petitioners are not guilty of such offence and that they are 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 petitioners subject to the following conditions:

7.Accordingly, the petitioners are ordered to be released on bail on their executing a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) each with two sureties each for a like sum to the satisfaction of the learned II Additional Special Court for NDPS Act cases, Madurai.

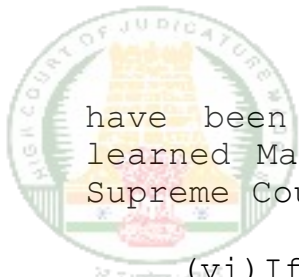
(i)the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

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

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

(iv)the petitioners 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 petitioners in accordance with law as if the conditions



have been imposed and the petitioners 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 / petitioners thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-

15/02/2022

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15/02/2022

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 SPECIAL JUDGE FOR NDPS ACT CASES,
MADURAI.

2 THE INSPECTOR OF POLICE
KOODAL PUDUR POLICE STATION,
MADURAI DISTRICT.

3 THE OFFICER INCHARGE,
DISTRICT JAIL, MADURAI.

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

+1 CC to M/s.M.KANNAN, Advocate (SR-1119[I] dated 15/02/2022)

ORDER

IN

CRL OP(MD) No.1396 of 2022

Date :15/02/2022

RS/MS/SAR.1(15.02.2022) 3P-6C