



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 23/03/2022

WEB COPY

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.1899 of 2022

Sundar @ Sundarraaj,

... Petitioner/Accused No.3

Vs

THE STATE REP BY,
The Inspector of Police,
Munneerpallam Police Station,
Tirunelveli District
(Crime No. 526 of 2020).

... Respondent/Complainant

For Petitioner : MR.C.Saravanakumar, Advocate.

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

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

PRAYER :-

For Anticipatory Bail in Crime No.526 of 2020 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/accused No.3, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 8(C) r/w 20(b)(ii)(C) and 25 of Narcotic Drugs and Psychotropic Substances Act, 1985, in Cr.No.526 of 2020, seeks anticipatory bail.

2.The case of the prosecution is that on 09.09.2020 at about 15.00 hours, the respondent police conducted vehicle check up in front of Suresh College, Tirunelveli, at that time, a two wheeler bearing Registration No.TN-72-BF-2363 with two persons and a car bearing Registration No.TN-05-AP-7270 with three persons, were coming towards them. On seeing the police party, the accused persons tried to escape. The police had only nabbed three accused persons and this petitioner had escaped from the scene. The police on



search, found 21 kgs of Ganja from the possession of the accused persons. Therefore, the present case came to be registered against the petitioner and other accused.

3.The learned counsel for the petitioner would submit that there was no recovery from the petitioner, that only based on the confession statement of the co-accused, the petitioner was implicated in this case and that he is not having any previous case.

4.The learned Additional Public Prosecutor would submit that the petitioner was added only on the basis of the confession taken from the co-accused, that the entire contraband of 21kgs of Ganja was recovered from A4 to A7, that after completing investigation, the charge sheet has been filed and the case was taken on file in C.C.No.147 of 2021, that since the petitioner is absconding, the absconding charge sheet has been filed and that the learned Sessions Judge has issued warrant to secure the petitioner and the same is pending.

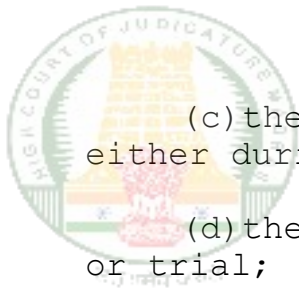
5.Admittedly, there was no recovery from the petitioner. As rightly contended by the learned counsel for the petitioner, except the confession statement of the first accused, the prosecution has not shown nor produced any material or evidence to connect the petitioner with the crime in question. There is also no evidence to show that the petitioner was present at the scene of occurrence and that the petitioner is having no previous case for similar offence.

6.Considering the above, this Court is satisfied that there are reasonable grounds for believing that the petitioner is not guilty of such offence and that the petitioner is not likely to commit such offence, while on bail and hence, this Court is inclined to grant anticipatory bail to the petitioner.

7.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Principal Special Court EC and NDPS Act Cases, Madurai, on condition that the petitioner shall execute a bond for a sum of Rs.50,000/-(Rupees Twenty Fifty Thousand only) with two sureties, each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Special Judge concerned and on further conditions that:

(a)the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Special Judge may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b)the petitioner shall report before the concerned Court on <https://hcservices.courts.gov.in/hcservices/> at 10.30 a.m., until further orders;



(c)the petitioner shall not tamper with evidence or witness either during investigation or trial;

(d)the petitioner shall not abscond either during investigation or trial;

(e)on breach of any of the aforesaid conditions, the learned Special Judge 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 Special Judge himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]**; and;

(f)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

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

SJI

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 JUDGE,
PRINCIPAL SPECIAL COURT EC AND NDPS ACT CASES,
MADURAI.
- 2 THE INSPECTOR OF POLICE
MUNNEERPALLAM POLICE STATION,TIRUNELVELI DISTRICT
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,MADRUAI.

+1 CC to M/s.C.SARAVANA KUMAR, Advocate (SR-2412[I]

ORDER

IN

CRL OP(MD) No.1899 of 2022

Date :23/03/2022

PKP/SVR/SAR-2/01.04.2022/3P/5C