



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Reserved on : 08.03.2022
Delivered on : 10.03.2022
PRESENT

WEB COPY

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.2171 of 2022

Muthukaruppan

... Petitioner/Accused No.4

vs.

State represented by
The Inspector of Police,
NIB-CID Dindigul,
Dindigul District.
(Crime No.10 of 2020)

... Respondent/Complainant

For Petitioner : Mr.K.K.RAMAKRISHNAN, Advocate
for Mr.M.PITCHAI MUTHU, Advocate.

For Respondent : Mr.E.ANTONY SAHAYA PRABAHAR,
Additional Public Prosecutor.

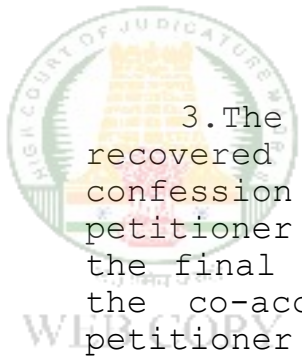
PETITION FOR BAIL Under Section 439 of Cr.P.C.

PRAYER :- For Bail in C.C.No.191 of 2020 on the file of the learned Principal Special Court for EC and NDPS Act Cases, Madurai.

ORDER : The Court made the following order :-

The petitioner/A.4 is facing a case for the offences punishable under Sections 8(c) r/w 20(b)(ii)(C) of Narcotic Drugs and Psychotropic Substances Act, in C.C.No.191 of 2020 on the file of the learned Principal Special Court for EC and NDPS Act Cases, Madurai, in Crime No.10 of 2020, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 11.02.2020 at about 07.00 hours, based on the secret information, the respondent police went to Palani by-pass four-way junction, that on seeing the police party, the first accused attempted to run away by carrying gunny bags, that the respondent police caught him and on search, it was found that he was in possession of 22 kgs of Ganja and that the first accused has given a voluntary confession statement, in which, he implicated the involvement of the other three accused including the petitioner herein.



3.The case of the petitioner is that the entire contraband was recovered from the first accused, that only on the basis of the confession alleged to have taken from the first accused, the petitioner was implicated and that the respondent has already filed the final report and as of now, except the confession statement of the co-accused, no material has been produced to connect the petitioner with the crime in question.

4.The learned counsel for the petitioner would submit that the petitioner was arrested by executing Non-Bailable Warrant, that all other three accused were already arrested and released on bail, that the petitioner is a college student studying B.A. History at G.T.N. Arts College, Dindigul, and that the petitioner is innocent and he is in no way connected with the alleged crime.

5.The respondent has filed a counter affidavit raising objections to enlarge the petitioner on bail.

6.The learned Additional Public Prosecutor would submit that the contraband seized is of commercial quantity, that the accused 1 to 3 were detained under the TN Act 14 of 1982 and that the final report has already been filed and the case was taken on file in C.C.No.191 of 2020.

7.When the matter was taken up for hearing on 03.02.2022, this Court, considering the semester examination of the petitioner, has granted interim bail for the period between 04.02.2022 and 24.02.2022 on certain conditions.

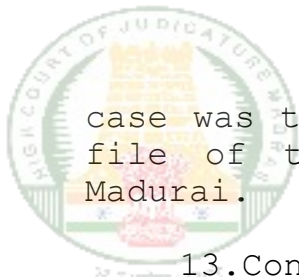
8.At the enquiry, the learned counsel for the petitioner has taken a new stand that the petitioner was a juvenile on the date of the alleged occurrence.

9.The respondent, in the counter statement filed subsequently, has specifically admitted that the petitioner was born on 29.03.2002 and he was aged 17 years 10 months on the date of occurrence and that at present, he is aged about 20 years.

10.As rightly contended by the learned counsel for the petitioner, admittedly, there was no recovery from the petitioner. Even according to the prosecution, the petitioner was implicated only on the basis of the confession taken from the first accused.

11.Moreover, the learned Additional Public Prosecutor would submit that the petitioner is not having any previous cases under the NDPS Act.

12.As rightly contended by the learned counsel for the petitioner, except the confession statement of the co-accused, there is no other material available to connect the petitioner with the crime in question. Moreover, as rightly pointed out, investigation has been completed and charge sheet has been laid and the



case was taken on file in C.C.No.191 of 2020 and is pending on the file of the Principal Special Court for EC & NDPS Act Cases, Madurai.

13.Considering the above facts and circumstances of the case and also the fact that the petitioner is not having any previous cases under the 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.

14.In view of the above, this Court is inclined to grant bail to the petitioner subject to the following conditions:

15.Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Principal Special Court for EC & 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 petitioner shall report before the trial Court on all working days at 10.30 a.m., 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.

16.As already pointed out, the respondent police has specifically admitted that the petitioner has not completed 18 years of age on the date of the alleged occurrence. Hence, the learned Special Judge is required to act in accordance with the Juvenile Justice (Care and Protection of Children) Act.

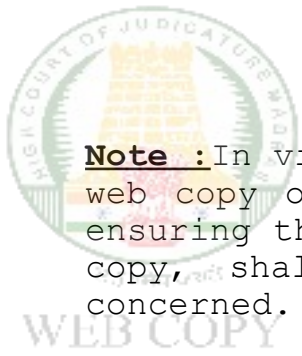
sd/-

10/03/2022

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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 JUDGE
SPECIAL COURT FOR EC & NDPS ACT CASES,
MADURAI.
- 2 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.
- 3 THE INSPECTOR OF POLICE,
NIB-CID DINDIGUL,
DINDIGUL DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.PICHAIMUTHU.M Advocate SR.No.1906

ORDER

IN

CRL OP(MD) No.2171 of 2022

Date :10/03/2022

SA/VR/SAR.4/14.03.2022/4P/6C