



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Reserved on : 17.03.2022
Delivered on : 23.03.2022
PRESENT

WEB COPY

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.2391 of 2022

M.Nivek

... Petitioner/Accused No.1

vs.

State represented by
The Inspector of Police,
NIB-CID,
Theni District.
(Crime No.31 of 2021)

... Respondent/Complainant

For Petitioner : Mr.NA.MANIMARAN,
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.31 of 2021 on the file of the respondent police.

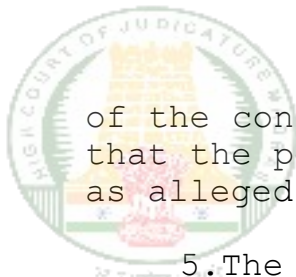
ORDER : The Court made the following order :-

The petitioner/A.1, who was arrested and remanded to judicial custody on 05.06.2021 for the offences punishable under Sections 8(c) r/w 20(b)(ii)(c) of Narcotic Drugs and Psychotropic Substances Act, in Crime No.31 of 2021, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 22.05.2021, on receiving a secret information, the respondent police conducted a check up at Pathinetam Calvai near Cumbam Manikadi Alamaram road at about 06.00 a.m., they have stopped one person, by name, Arasan and he was found in possession of 25 kgs of Ganja and that therefore he was arrested and the contraband was seized from him.

3.It is the further case of the prosecution that the second accused has given a voluntary confession statement, wherein, he has implicated the involvement of the petitioner and that the petitioner was arrested on 05.06.2021 and he gave a confession statement, wherein, he has admitted that he transported the Ganja from Andhra Pradesh.

4.The learned counsel for the petitioner would submit that no contraband was recovered from the possession of the petitioner, that he was not there at the scene of occurrence, that only on the basis



of the confession statement of the co-accused, he was implicated and that the petitioner is innocent and he has not committed any offence as alleged by the prosecution.

5.The learned Additional Public Prosecutor would submit that the petitioner is having three pending cases registered for the offence under IPC and he is not having any previous cases under NDPS Act. He would further submit that the second accused is only a coolie, that only the petitioner is the main accused, but there was no recovery from the present petitioner and that he was added only on the basis of the confession given by the second accused.

6.Admittedly, there was no recovery from the petitioner herein. According to the prosecution, the petitioner was implicated only on the basis of the confession statement alleged to have taken from the co-accused.

7.It is pertinent to note that except the confession statement of the co-accused, the prosecution has not shown any other material or evidence to link the petitioner with the crime in question. Moreover, as already pointed out, the petitioner is not having any previous cases under NDPS Act.

8.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 he is not likely to commit any such offence, after coming out on bail, as contemplated under Section 37 of NDPS Act.

9.In view of the above, 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 his 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 Principal Special Court for EC and NDPS Act Cases, Madurai.

(i)the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/Special 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., 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/Special 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/Special Court himself as laid down by the Hon'ble Supreme



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

sd/-
23/03/2022

WEB COPY

/ TRUE COPY /

24/03/2022

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

**ORDER
IN**

CRL OP(MD) No.2391 of 2022
Date : 23/03/2022

SA/VR/SAR.1/24.03.2022/3P/5C