



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 10/03/2022

PRESENT

The Hon'ble Mr.Justice G.ILANGO VAN

Crl.OP(MD)Nos.3947 and 3949 of 2022

Suthakaran : Petitioner/Accused No.3
in CRL OP(MD) No.3947 of 2022

Kannan : Petitioner/Accused No.2
in CRL OP(MD) No.3949 of 2022

Vs.

State represented by
Inspector of Police,
Koodalpudur P.S,
Madurai City,
Madurai District.
(Crime No.1388 of 2020)

: Respondent/Complainant
in both the petitions

In both the petitions:

For Petitioners : Mr.Niranjana S.Kumar,
Advocate

For Respondent : Mr.B.Nambi Selvan
Additional Public Prosecutor

PETITIONs FOR BAIL Under Sec.439 of Cr.P.C

PRAYER :-

For Bail in Crime No.1388 of 2020 on the file of the Respondent Police.

COMMON ORDER : The Court made the following order :-

The petitioners, who were arrayed as A3 and A2 arrested on 23/05/2020 and remanded to judicial for the alleged offences punishable under section 8(c) r/w 20(b)(ii)(C) and Section 29(1) of NDPS Act, in Crime No.1388 of 2020 on the file of the respondent police, seek bail.

2.The petitioners are facing the charges for the offences under sections 8(c) r/w 20(b)(ii)(C) and section 29(1) of NDPS Act.

3.Heard both sides.

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



4. These two applications are having long history. Repeated applications have been filed by the petitioners ended in dismissals. Even an attempt on the part of one of the petitioners for getting bail before the Hon'ble Supreme Court also failed.

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5. On the earlier occasion, this court has also directed the petitioners herein to move the trial court, since charge sheet has been laid and the charges have also been framed. They also made another attempt before the trial court. That also ended in dismissal. This attempt has been made by the petitioners to get bail on the only ground that the co-accused, who are similarly placed have been granted bail by the Coordinate Bench of this court, in Crl.OP(MD)No.819 of 2022, dated 16/02/2022 and in Crl.OP(MD)No.3766 of 2022, dated 03/03/2022. The copies of which are also produced before this court. Even though much contentions have been raised by the learned counsel appearing petitioners during the course of argument, on going through the factual aspects as well as the merits of the case, the centre of the argument is the rule of parity, which is well recognized in the bail jurisprudence, which is more or less, well settled now. The basic principle underlining this rule is that the role of the accused with regard to the occurrence must be taken into account for consideration.

6. Now the FIR reads that when the police team went to the place of occurrence on a tip off, several persons were found in the place of occurrence, preparing pockets of the contraband and some of the persons escaped from the place of occurrence and two persons have been arrested. Based upon the confession of the co-accused, these petitioners are arrayed as accused.

7. As mentioned earlier, without going into the other aspects, whether section 37 of the NDPS Act has been complied or not, we can straightaway go to the bail order that has been passed by the Coordinate Bench of this court. A3 and A5 have been granted regular bail on the ground that except the confession statement of the co-accused, no other materials have been collected during the course of investigation. Even though those petitioners are having cases under the provisions of the Indian Penal Code, they are not having similar cases, the duration of custody of the petitioners has also been taken into account. Here applies the rule of parity. Those persons were also similarly placed and those persons were alleged to have been escaped from the place of the occurrence, on seeing the police team. These petitioners are also on the very same footing.

8. So, without going to the other aspects, only on the rule of parity, this court is inclined to grant bail to the petitioners with certain conditions. Accordingly, the petitioners are ordered to be released on bail on their executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the learned II Additional District Judge for



NDPS Cases Court, Madurai and on further condition that the petitioners shall report before the respondent police daily at 10.30 am until further orders.

sd/-
10/03/2022

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/ /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 COURT,
MADURAI.
2. THE INSPECTOR OF POLICE,
KODAL PUDUR P.S,
MADURAI CITY,
MADURAI DISTRICT.
3. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+2 CC to M/s.NIRANJAN.S.KUMAR, Advocate (SR-1892 & 1893 [I] dated 10/03/2022)

ORDER
IN
Crl.OP(MD)Nos.3947 and 3949
of 2022
Date :10/03/2022

USK/VR/SAR-III/11.03.2022/3P/7C