



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 03/03/2022

PRESENT

WEB COPY

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.3766 of 2022

Balamurali @ Ovayan Balamurali, ... Petitioner/Accused No.5

Vs

The State Rep by,
The Inspector of Police,
Koodal Pudur P.S,
Madurai City,
Madurai District.
(Cr.No. 1388/2020).

... Respondent/Complainant

For Petitioner : M/s.Niranjana.S.Kumar,
Advocate.

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

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

PRAYER :-

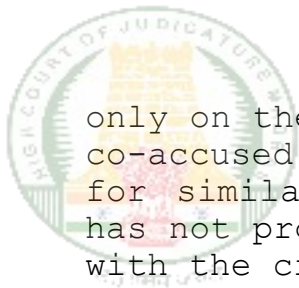
For Bail in Crime No.1388 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A5 is facing a case for the offence under Sections 8(C), 20(b) (ii)(C) and 29(1) of NDPS Act,1985 in Crime No.1388 of 2020, on the file of the respondent Police, seeks bail.

2.The case of the prosecution is that on 05.09.2020 at about 03.00 pm, 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.

3.The learned counsel for the petitioner would submit that the petitioner has voluntarily surrendered on 12.01.2022 and remanded to judicial custody on the same day. He would further submit that there was no recovery from the petitioner, that he was falsely implicated



only on the basis of the alleged confession statement taken from the co-accused and that the petitioner is not having any previous case for similar offence. He would further submit that the prosecution has not produced any materials or evidence to connect the petitioner with the crime in question.

WEB COPY

4.The learned Additional Public prosecutor appearing for the State would submit that there are totally 16 accused, that the contraband seized is of commercial quantity and 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. He would further submit that the petitioner is having five previous cases in Crime No.331 of 2014, for the offence under Sections 392 r/w 397 and 506(ii) IPC, Crime No.7 of 2013, for the offence under Sections 147, 148, 307, 324, 341 and 506(ii) IPC, Crime No.1019 of 2013, for the offence under Sections 147, 148, 149, 302, 307, 341 and 506(ii) IPC, Crime No.1200 of 2013, for the offence under Section 110(3) Cr.P.C and Crime No.495 of 2016, for the offence under Section 110(a) of Cr.P.C. He would fairly concede that the petitioner is not having any previous case under the NDPS Act.

5.Admittedly, there was no recovery from the petitioner and there is no evidence or materials to show that the petitioner was present at the scene of occurrence.

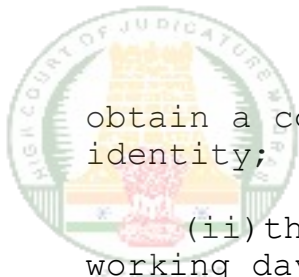
6.As rightly pointed out by the learned counsel for the petitioner, except the confession statement alleged to have been taken from the co-accused, there is no other material available to connect the petitioner with the crime in question.

7.Considering the above facts and circumstances of the case and also the facts that the petitioner is not having any previous case 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.

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

9.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 II Additional Special Court for NDPS Act Cases, (FAC), Madurai.

(i)the sureties shall affix their photographs and left thumb impressions on 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 am 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.

sd/-

03/03/2022

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04/03/2022

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,
THE II ADDITIONAL SPECIAL COURT FOR NDPS
ACT CASES, (FAC), 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,
MADRURAI.

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+1. CC to MR.Niranjan.S.Kumar, Advocate SR.No.1718(I)

ORDER

IN

CRL OP(MD) No.3766 of 2022

Date :03/03/2022

PKP/SBN/SAR-4/04.03.2022/4P/6C