



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
( Criminal Jurisdiction )  
Date : 13.04.2022  
PRESENT

WEB COPY

**The Hon`ble Mr.Justice B.PUGALENDHI**

CRL OP (MD) . Nos.5113 and 6278 of 2022

DINESH PAUL

... PETITIONER/ACCUSED NO.7  
IN CRL.OP (MD) .5113/2022

PERATCHI

... PETITIONER/ACCUSED NO.5  
IN CRL.OP (MD) .6278/2022

**VS**

THE STATE REP. BY  
THE INSPECTOR OF POLICE,  
MUNEERPALLAM STATION,  
TIRUNELVELI DISTRICT.  
CRIME NO.526 OF 2020

... RESPONDENT/COMPLAINANT  
IN BOTH PETITIONS

For Petitioner in  
Crl.O.P.(MD)No.5113/2022 : Mr.G.THALAIMUTHUARASU, Advocate  
for Mr.A.S.VAIGUNTH, Advocate

For Petitioner in  
Crl.O.P.(MD)No.6278/2022 : Mr.J.VIJAYARAJA  
Advocate

For Respondent : Mr.T.SENTHILKUMAR,  
In both Petitions Additional Public Prosecutor

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

**COMMON PRAYER :-** For bail in Crime No.526 of 2020 on the file of the Respondent police.

**COMMON ORDER :** The Court made the following order :-

The petitioners, who were arrested on 09.09.2020, for the offence punishable under Sections 8(c), 20(b), (II), (c) and 25 of NDPS Act, in Crime No.526 of 2020, seek bail.

2. On 09.09.2020, the respondent Police intercepted a Car bearing Reg.No.TN05AP 7270, where, A1 to A5 travelled and a motor cycle bearing Reg.No.TN72BF 2363, which was riding by A6 and A7 was the pillion rider. After enquiry, the respondent Police recovered 19 kgs of ganja from the Car and 2.1 kgs. of ganja from the motor cycle.



3. This is the fourth and third bail petitions of A7 and A5 respectively. In view of the provisions under Section 37 of NDPS Act, this Court dismissed the earlier bail petitions filed by the petitioners.

4. The learned counsel appearing for the petitioners submits that totally, there are seven accused in this case. At the time of arrest, A1 to A3 absconded and the remaining accused were arrested. They further submit that the entire recovery was made from A4 and A6 alone and not from the petitioners herein. They further submit that A3, who is the absconded accused, was granted anticipatory bail by this Court in Crl.O.P.(MD)No.1899 of 2022 and A1 was also released on bail by this Court. Therefore, they prayed for grant of bail to the petitioners.

5. The learned counsel for the petitioner in Crl.O.P.(MD) No.5113 of 2022/A7 submits that the petitioner/A7 is a B.E.Graduate and there is no antecedent against him. Therefore, he prayed for grant of bail to the petitioner/A7.

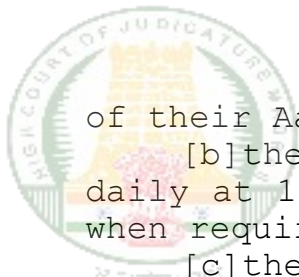
6. The learned Additional Public Prosecutor submits that it is true that at the time of arrest, A1 to A3 absconded and now, A1 was released on bail and A3 was also granted anticipatory bail by this Court on the ground that there was no recovery from them. However, the same cannot be taken as a ground for grant of bail to these petitioners, when the contraband was recovered from them. He further submits that it cannot be taken as a change of circumstances, when the earlier bail applications were dismissed on merits.

7. As per the case of the prosecution, the contraband was taken in two vehicles, namely, a car and a motorcycle. A5 is a passenger in the car and A7 is a pillion rider in the motorcycle. The recoveries were made from A4 and A6. Even as per the prosecution, 2.1 kgs. of ganja was recovered from the motorcycle and 19 kgs of ganja was recovered from the car. Therefore, the same cannot be termed as a commercial quantity. Now, the investigation was completed and final report has also been filed. Considering the fact that A1 was released on bail and A3 was also granted anticipatory bail by this Court, this Court is inclined to grant anticipatory to the petitioners.

8. Accordingly, these Criminal Original Petitions are ordered. The petitioners are directed to be released on bail on their executing a bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) each, with two sureties each for a like sum to the satisfaction of the learned Principal District and Special Additional District Court (NDPS Act), Madurai and on further conditions that:

[a]the sureties shall affix their photographs and Left Thumb

<https://hcmjportal.com/in/lcr-service/> the surety bond and the Magistrate may obtain a copy



of their Aadhar card or bank pass book to ensure their identity.

[b]the petitioners shall report before the respondent police daily at 10.30 am., for a period of two weeks and thereafter as and when required for interrogation.

[c]the petitioners shall not abscond either during investigation or trial.

[d]the petitioners shall not tamper with the evidence or witness either during investigation or trial.

[e]On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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]**.

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-

13/04/2022

/ TRUE COPY /

/ /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 PRINCIPAL DISTRICT AND SPECIAL ADDITIONAL DISTRICT JUDGE (NDPS ACT), MADURAI.
- 2 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
- 3 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI, TIRUNELVELI DISTRICT.
- 4 THE INSPECTOR OF POLICE, MUNEERPALLAM STATION, TIRUNELVELI DISTRICT.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.VAIGUNTH.A.S. Advocate SR.No.3379

**+1 cc to Mr.J.VIJAYA RAJA, Advocate, SR.No.3456 Date:19/04/2022**

**ORDER IN**

CRL OP (MD). Nos.5113 and  
6278 of 2022

Date :13/04/2022

SA/PN/SAR.2/13.04.2022/3P/8C

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