



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 18/03/2022

WEB COPY

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.5119 of 2022

Baskar

... Petitioner/Accused No.3

Vs

The State rep.by,
The Inspector of Police,
Ganesh Nagar Police Station,
Pudukkottai District.
Crime No.698 of 2021..

... Respondent/Complainant

For Petitioner : Mr.D.Rameshkumar,
Advocate.

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

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

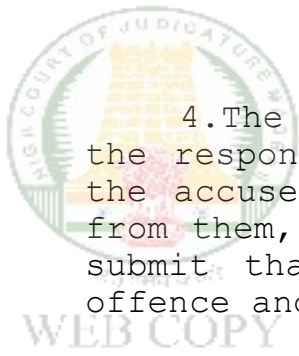
PRAYER :-For Anticipatory Bail in Crime No.698 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/accused, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 328 IPC r/w 21(a), 27(a) of NDPS Act, in Cr.No.698 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that on receiving secret information, the Police party reached near Matchuvaid Water Tank, wherein they found that the petitioner and the other accused were in possession of 9 Tydel Tablets. Hence, the present complaint.

3. The learned counsel for the petitioner would submit that the petitioner is innocent and not committed any offence as alleged by the prosecution. He would further submit that there was no recovery from the petitioner and that the petitioner was falsely implicated only on the basis of the alleged confession statement taken from the co-accused.



4.The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the contraband was recovered from the accused 1 and 2 and only on the basis of the confession taken from them, the petitioner was added as an accused. He would further submit that the petitioner is having a previous case under IPC offence and not having any case for similar offence.

5.Admittedly, the entire contraband was recovered from the accused 1 and 2. Moreover, the petitioner was implicated only on the basis of the confession alleged to have taken from the accused 1 and 2. Except the confession statement alleged to have been taken from the co-accused, the prosecution has neither shown nor produced any material or evidence to connect the petitioner with the crime in question.

6.Considering the nature of the charges levelled against the petitioner and also the facts that the property has been recovered from the accused 1 and 2 and that the petitioner is not having any previous cases for similar or serious offence, 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, this Court is inclined to grant anticipatory bail to the petitioner, but with certain conditions.

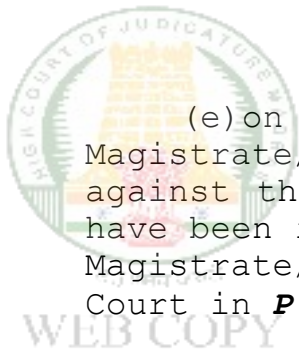
7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.I, Pudukkottai, on condition that the petitioner shall execute a bond 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 respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Special Judge concerned and on further conditions that:

(a)the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b)the petitioner shall report before the respondent police daily at 10.30 am for a period of one month and thereafter, as and when required for interrogation.

(c)the petitioner shall not tamper with evidence or witness either during investigation or trial;

(d)the petitioner shall not abscond either during investigation



(e) 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]***; and;

(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

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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 JUDICIAL MAGISTRATE NO.I
PUDUKKOTTAI
- 2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE, PUDUKKOTTAI DISTRICT.
- 3 THE INSPECTOR OF POLICE
GANESH NAGAR POLICE STATION, PUDUKKOTTAI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.5119 of 2022

Date :18/03/2022

DAS

MK/VR/SAR.I/24.03.2022/3P/5C