



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 29/04/2022

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI
CRL OP(MD). No.5565 of 2022

WEB COPY

Prakash

... Petitioner/Petitioner/Accused No.7

Vs

1.State Rep.by
The Inspector of Police,
Avaniapuram Police Station,
Madurai City.
(Crime No.66/2021).

2.The Inspector of Police,
NIB CID, Madurai District.
(Crime No.32/2021).

... Respondent/Respondent/Complainant

3.Mr.Thangeswaran,
Additional Public Prosecutor For NDPS Act Cases,
Madurai.

(R3 Suo Motu Impleaded as Per Order of this
Hon'ble Court Dated 20.04.2022 in
Crl.OP.(MD).Nos.3770, 4343, 5564, 5565 and
7025 of 2022)

For Petitioner : MR.B.SANTHANAM RAJESH KUMAR, Advocate
for M/s.Jamuna Bharathi S, Advocate.
For Respondent : Mr.T.Senthilkumar,
Government Advocate (Crl.Side)

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

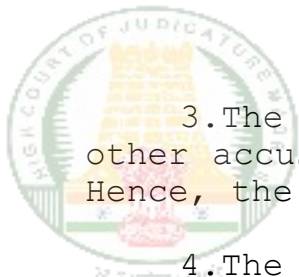
PRAYER :-

For Bail in Crime No.32/2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

2.The petitioner/Accused No.7, who was arrested on 10.08.2021, for the offence punishable under Sections 8(c), 20(b), (ii) (C), 25 and 29(1) of Narcotic Drugs and Psychotropic Substances Act, 1985 & 25(1A) of Arms Act in Crime No.32 of 2021, on the file of the respondent police, seeks bail.



3.The case of the prosecution is that the petitioner along with other accused were found in illegal possession of 190 kgs of ganja. Hence, the complaint.

4.The learned counsel appearing for the petitioner submits this is the second application filed by the petitioner for bail. He further submits that the case has been foisted against the petitioner and there was no other material except the confession statement of the first accused as against the petitioner. The accused Nos.1 to 3 are the main accused in this case and 130 kgs of ganja has been recovered from the house of the sixth accused and 60 kgs of ganja has been recovered from the accused Nos.1 to 3 and they have been released on bail by the trial Court. This petitioner is arrayed as Accused No.7 and he is languishing in jail from 10.08.2021. Hence, he prayed to released the petitioner on bail.

5.The learned Government Advocate (Crl.Side) confirmed the grant of bail to the main accused Nos.1 to 3 by the trial Court. He submits that the case was originally registered by the Inspector of Police, Avaniapuram and considering the quantity of ganja(Totally 190 kgs of ganja, out of which, 130 kgs had been recovered from the house of the A6 and 60 kgs of ganja had been recovered from the accused 1 to 3), the case was transferred to NIBCID Police. Further investigation was conducted by the NIBCID police and final report was also filed and the same is pending in CC No.304 of 2022.

6.This Court considered the rival submissions made and perused the materials placed on record.

7.Earlier application filed by the petitioner was dismissed by this Court, considering the quantity of ganja (190 kgs) involved in this case. As per the prosecution case, 60 kgs of ganja had been recovered from the accused Nos.1 to 3 in Autoricksaw and based on the confession statement of the first accused, further 130 kgs of ganja had also been recovered from the house of A6. The petitioner is implicated only through the confession statement of the first accused. The respondent police have also completed the investigation and filed a final report as against the petitioner, as if the petitioner also in connivance with other accused persons committed the offence. Excepting the confession statement, no other materials were collected by the Investigating Agency against the petitioner. The only available material is the confession statement recorded from the co-accused. The accused 1 to 3 are the main accused, from whom, the contraband was recovered and they have been also released on bail by the trial Court under Section 167(2) of Cr.P.C. Though there is provision under NDPS Act, the Investigating Agency obtained time for extension upto one year for filing the Final Report and they allowed the main accused 1 to 3 to enlarge on bail. The petitioner is in jail for more than several months. Only on the confession statement recorded as against the petitioner, the charge sheet has been taken on file in CC No.304 of 2022. It is also



reported that no previous case is pending against the petitioner.

8.Considering the fact that the main accused have been released on bail by the trial Court, Final Report has also been filed and trial in CC No.304 of 2022 is pending, there is no bad antecedent as against the petitioner, no recovery has been made from this petitioner, other than confession statement of the co-accused, there is no other material is available as against the petitioner and also considering the period of incarceration, this Court is inclined to grant bail to the petitioner.

9.Accordingly, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail on his 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 Special Court for EC and NDPS Act Cases, Madurai and on further conditions that:

[a]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 in the morning and evening, until further orders.

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

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

[e]On breach of any of the aforesaid conditions, the learned Judge/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 Judge/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/-

29/04/2022

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29/04/2022

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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
AVANIAPURAM POLICE STATION,
MADURAI CITY.

4 THE INSPECTOR OF POLICE
NIB CID,
MADURAI DISTRICT.

5 MR.THANGESWARAN
ADDITIONAL PUBLIC PROSECUTOR FOR NDPS ACT CASES,
MADURAI.

6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.B.SANTHANAM RAJESH KUMAR, Advocate (SR-4170[I] dated
29/04/2022)

ORDER
IN
CRL OP(MD) No.5565 of 2022
Date :29/04/2022

RS/VR/SAR.3 (29.04.2022) 4P-8C