



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

Dated: 05/08/2022

PRESENT

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The Hon'ble Mr.Justice G.ILANGO VAN

Crl.OP(MD)Nos.5309 and 10530 of 2022

Sri Krishnan : Petitioner/Accused No.1
Crl.OP(MD)No.5309 of 2022

John Justin @ Chatni : Petitioner/3rd Accused
Crl.OP(MD)No.10530 of 2022

Vs.

State, through
The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari District.
(Crime No.353 of 2021)

: Respondent/Complainant
in both petitions

For Petitioner in
Crl.OP(MD)No.5309/2022

: Mr.Ezhilarasu, Advocate

For Petitioner in
Crl.OP(MD)No.10530 of 2022

: Mr.R.M.Suresh, Advocate

For Respondent

: Mr.T.Senthil Kumar
Additional Public Prosecutor
IN BOTH PETITIONS

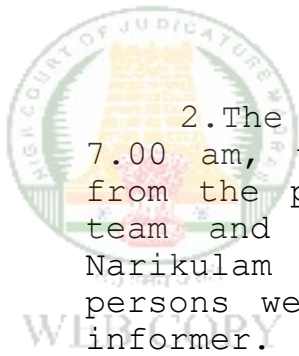
PETITIONS FOR BAIL Under Sec.439 of Cr.P.C

PRAYER:-

For Bail in Crime No.353 of 2021 on the file of the Respondent Police.

COMMON ORDER : The Court made the following order:-

The petitioner in Crl.OP(MD)No.5309 of 2022, who is arrayed as A1 was arrested, on 04/07/2021 and the petitioner in Crl.OP(MD)No.10530 of 2022, who is arrayed as A3 was arrested, on 22/01/2022 and remanded to judicial custody for the alleged offences punishable under sections 8(c) r/w 20(b)(ii)(c) of NDPS Act, in Crime No.353 of 2021, seek bail.



2.The case of the prosecution is that on 04/07/2021 at 7.00 am, the de-facto complainant received a secrete information from the police informer. On that account, along with the police team and the police informer, they were in surveillance near Narikulam Colony, Mahathanapuram roundana. At that time, three persons were found with package bag. They were identified by the informer. On enquiry, they disclosed their name as Sri Krishnan, Samy and John Justin alias Chatni. Among three persons, one John Justin alias Chatni escaped from that place and other two persons were apprehended. On search, they were found in possession of 21 kgs of ganja worth about Rs.2,00,000/-. Further proceedings were undertaken as per the procedure and the accused persons were arrested on the spot itself and remanded to judicial custody and investigation was undertaken. After completing the investigation, final report was filed before the concerned court and it has taken cognizance in CC No.136 of 2022.

3.Seeking bail, the petitioners, who are arrayed as A1 and A3 have moved separate bail applications.

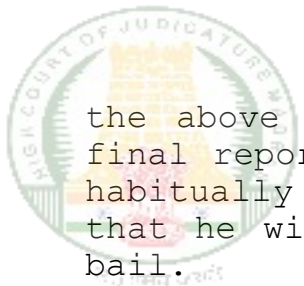
4.Heard both sides.

5.It is seen from the records that in so far as Sri Krishnan-A1 is concerned, he was arrested on the spot itself along with the contraband. He moved bail application before the trial court, in Crl.MP No.2117 of 2021 and that was dismissed, on 31/01/2022 on the ground that section 37 of the NDPS Act was not complied.

6.Now the learned counsel appearing for the petitioner/A1 would submit that he is in custody for more than 250 days. Except stating that, no other ground worth considering has been mentioned. He would further submit that in this case, final report has been filed much after the period of limitation. On that ground, a report has been called from the concerned court. Perusal of the report shows that it was presented, on 28/12/2021, which is much within the statutory period. So, the petitioner/A1 cannot take advantage of the above said delay.

7.In so far the petitioner in Crl.OP(MD)No.10530 of 2022 is concerned, the learned counsel appearing for the petitioner has produced the extract of the previous cases pending against the petitioner. In Crime No.106 of 2009, he was acquitted, which is a NDPS offence and in Crime No.558 of 2015, final report was filed as 'Mistake of Fact. So according to him, no previous antecedent can be attributed against the petitioner. But is seen that he is a habitual offender involving in similar offences. So there is no guarantee that if the petitioner is released on bail, he will not commit any similar offence or other offences.

8.The learned Additional Public Prosecutor would submit that the petitioner/A1 is involved in Crime No.803 of 2020 also. Now in



the above said crime number, investigation has been completed and final report has been filed, which shows that this petitioner/A1 is habitually dealing with the contraband. So, there is no guarantee that he will not commit any similar offence, if he is released on bail.

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9. Similarly, in so far as A3 namely John Justin @ Chatni is concerned, the learned counsel appearing for the petitioner/A3 would submit that only based upon the statement of the co-accused, he was implicated. Except that no recovery has been made from him.

10. The bail application that was filed by him, before the trial court also came to be dismissed by observing that the petitioner/A3 is a habitual offender, involving in several cases.

11. Now the learned Additional Public Prosecutor would submit that the petitioner/A3 is having seven previous cases, out of which, the case in Crime No.106 of 2009 is a similar offence, in which he was acquitted, considering the fact that except the confession statement of the co-accused, no other material has been collected against him during the course of investigation. But however, the petitioner/A3 has been identified by the co-accused at the time of occurrence itself. So considering the antecedents of the petitioner/A3, this court is not inclined to grant bail to A3. If bail is granted, he will abscond and there is no guarantee that he will not commit any similar offence.

12. In view of the above facts, the petitioners are not entitled for bail. However, since final report has been filed and considering duration of the custody of the petitioners, there shall be a direction to the trial court to expedite the trial process and complete the same within a period of five months from the date of receipt of a copy of this order.

13. With the above said direction, both criminal original petitions are **dismissed**.

sd/-
05/08/2022

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/08/2022
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 ADDITIONAL DISTRICT JUDGE / PRESIDING OFFICER,
PRINCIPAL SPECIAL COURT FOR EC & NDPS ACT CASES,
MADURAI.
2. THE ADDITIONAL DISTRICT JUDGE / PRESIDING OFFICER,
I ADDITIONAL SPECIAL COURT FOR EC & NDPS ACT CASES
MADURAI.
3. THE INSPECTOR OF POLICE,
KANYAKUMARI POLICE STATION,
KANYAKUMARI DISTRICT.
4. THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
Crl.OP(MD)Nos.5309 and
10530 of 2022
Date :05/08/2022

er
USK/PN/SAR-IV/10.08.2022/4P/6C