



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

Date : 23/03/2022

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.5369 of 2022

WEB COPY

P.Sankar

... Petitioner/Accused Rank Not Known

Vs

State Rep.by
The Inspector of Police,
Melapalayam Police Station,
Melapalayam,
Tirunelveli City,
(Crime No.301 of 2021).

... Respondent/Complainant

For Petitioner : M/s.N.Pragalathan,
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.301 of 2021 on the file of the respondent Police.

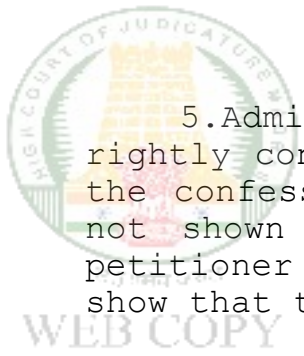
ORDER : The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 8(c) and 20(b)(ii)(B) of Narcotic Drugs and Psychotropic Substances Act, 1985, in Cr.No.301 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner and other accused were found in possession of 1.250kgs of Ganja illegally. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner was implicated only on the basis of the confession alleged to have taken from A1 and that there was no recovery from the petitioner herein.

4.The learned Additional Public Prosecutor would submit that 1.250kgs of Ganja was recovered from the first accused, who is none other than the brother of the present petitioner, that the petitioner was added only on the basis of the confession taken from A1 and that the petitioner is having four previous cases, in which, two cases under the NDPS Act. He would fairly concede that the previous cases under the NDPS Act were in respect of small quantity.



5. Admittedly, there was no recovery from the petitioner. As rightly contended by the learned counsel for the petitioner, except the confession statement of the first accused, the prosecution has not shown nor produced any material or evidence to connect the petitioner with the crime in question. There is also no evidence to show that the petitioner was present at the scene of occurrence.

6. Considering the above, this Court is inclined to grant anticipatory bail to the petitioner.

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 Principal Special District Court for EC and NDPS Cases, Madurai, on condition that the petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees Twenty Fifty 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 Special Judge 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 a.m., until further orders;

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

(d) the petitioner shall not abscond either during investigation or trial;

(e) on breach of any of the aforesaid conditions, the learned Special Judge 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 Special Judge 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/-

23/03/2022

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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.

WEB COPY

1 THE PRINCIPAL SPECIAL DISTRICT JUDGE FOR EC AND NDPS CASES,
MADURAI.

2 THE INSPECTOR OF POLICE
MELAPALAYAM POLICE STATION,
MELAPALAYAM,
TIRUNELVELI CITY.

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

+1 CC to M/s.N.PRAGALATHAN, Advocate (SR-2393[I] dated 23/03/2022)

ORDER

IN

CRL OP(MD) No.5369 of 2022

Date :23/03/2022

RS/VR/SAR.2(04.04.2022) 3P-5C