



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12/04/2022

PRESENT

WEB COPY

THE HON'BLE MR JUSTICE G.ILANGO VAN

Cr1.O.P. (MD)No.5960 of 2022

Kasthuriyappa

... Petitioner/Accused 5

Vs.

State rep. By
The Inspector of Police,
Kaliyakavilai Police Station,
Kanyakumari District.
(Crime No.154 of 2021)

... Respondent/Complainant

For Petitioner : Mr.G.Kannan, Advocate

For Respondent : Mr.SS.Madhavan
Government Advocate(Criminal side)

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

PRAYER :-

For Anticipatory Bail in Crime No.154 of 2021 on the file of the Respondent Police.

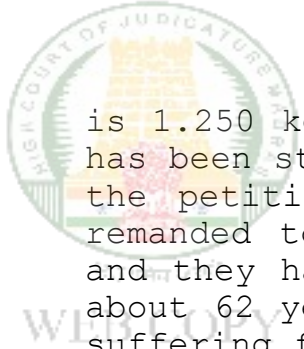
ORDER : The Court made the following order:-

The petitioner, who is arrayed as A5 apprehending arrest at the hands of the respondent police for the alleged offences punishable under sections 8[c] and 20(b)(ii)(B) of Narcotic Drugs & Psychotropic Substance Act, 1985, in Crime No.154 of 2021, seeks anticipatory bail.

2.The petitioner is facing the charges for the offences under sections 8[c] and 20(b)(ii)(B) of Narcotic Drugs & Psychotropic Substance Act, 1985

3.Heard both sides.

4.The earlier anticipatory bail applications filed by the petitioner came to be dismissed by this court on the ground that section 37 of the NDPS Act has not been complied. Now the learned counsel appearing for the petitioner would submit that the contraband, that has been alleged to have been involved in this case



is 1.250 kgs and it is only an intermediate quantity. Moreover, it has been stated that no contraband has been recovered or seized from the petitioner and the co-accused accused have been arrested and remanded to judicial custody and recovery has been made from them and they have also been released on bail. This petitioner is aged about 62 years at the time of the alleged occurrence and now he is suffering from Tuberculosis.

5. Reading of the FIR shows that on a tip-off, the police party went to the place of occurrence, at the time five persons were found in possession of ganja. When the police team went to the occurrence place, only three persons were able to arrested and others fled away from the place of occurrence. According to the petitioner, he is aged about 62 years and absolutely, there was no possibility for him to run away from the place of occurrence. But all these things cannot be taken into account at this stage.

6. Perusal of the CD file shows that the petitioner ran away from the place of occurrence and from the co-accused, several vehicles have been recovered. So the contention that the petitioner is not involved in the occurrence and there is no possibility for him to run away from the place of occurrence, cannot be accepted at this stage.

7. But however, even though serious allegation has been made against this petitioner, considering the fact that the petitioner is suffering from Tuberculosis undergoing treatment and there is no previous bad antecedent against him, I am of the considered view that this court is inclined to grant anticipatory bail to the petitioner on medical ground with certain conditions. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance before the learned Judicial Magistrate No.1, Kuzhithurai, Kanyakumari District and on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate concerned and on further condition that the petitioner shall appear before the respondent police daily at 10.30 am until further orders. The petitioner shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously. The petitioner shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail will stand dismissed.

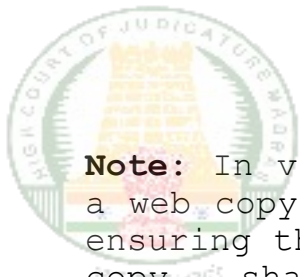
Sd/-

12/04/2022

/ TRUE COPY /

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Sub-Assistant Registrar (C.S.II)
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,
KUZHITHURAI, KANYAKUMARI DISTRICT.
2. -DO- THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
3. THE INSPECTOR OF POLICE,
KALIYAKAVILAI POLICE STATION,
KANYAKUMARI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.G.Kannan, Advocate SR.No.18216

ORDER
IN
CRL OP(MD) No.5960 of 2022
Date :12/04/2022

SP/VR/SAR II/18/04/2022/3P/6C