



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

RESERVED ON : 28/04/2022

PRONOUNCED ON: 18/05/2022

PRESENT

The Hon`ble Mr.Justice **K.MURALI SHANKAR**

CRL OP(MD). No.5654 of 2022

Gunasekar ... Petitioner/Sole Accused
Vs

The State represented by
The Inspector of Police,
Dindigul Taluk Police Station,
Dindigul District.
(Crime No.1163 of 2021)

... Respondent/Complainant

For Petitioner : Mr.M.Jegadeesh Pandian, Advocate.

For Respondent : Mr.R.Meenakshi Sundaram,
Additional Public Prosecutor.

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

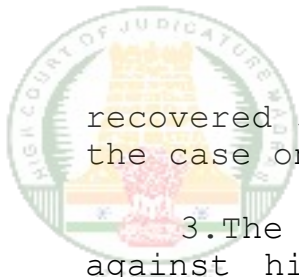
PRAYER :-

For Anticipatory Bail in Crime No.1163 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/sole accused, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 8(c) r/w 20(b)(ii)(C) of NDPS Act, 1985, in Crime No.1163 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that on 01.11.2021 at about 16.30 hours, on receiving a secret information, the respondent police proceeded to Dindigul to Thottanuthu Road, Maalaipatti, near Valasa Keni and at about 17.15 hours, they found a person by name Gunasekar carrying a white colour gunny bag as head load, that the respondent police immediately intercepted him and enquired him and at that time, the said Gunasekar dropped the gunny bag and fled away from the scene of occurrence and that the respondent police has



recovered 35 kgs of ganja available in the gunny bag and registered the case on hand.

3.The case of the petitioner is that the allegations levelled against him are false, that it is not at all possible for the petitioner to fled away from the scene of occurrence as alleged by the prosecution, that the occurrence place is not at all hilly area and it is a plain road and that the entire occurrence projected by the police is false and concocted.

4.The learned counsel for the petitioner would submit that no contraband was recovered from the petitioner, that the petitioner is not having any bad antecedents and that therefore the question of invoking Section 37 of NDPS Act does not arise at all.

5.The learned Additional Public Prosecutor would submit that the petitioner is not having any previous cases, but he has been actively involved in ganja trade and that too in commercial quantity, that the petitioner was caught red handed on the date of occurrence, but during the enquiry, he fled away from the scene of occurrence and absconded and that therefore Section 37 of NDPS Act is very much applicable to the case on hand.

6.As rightly pointed out by the learned counsel for the petitioner, in the FIR, it has been stated that the police team of three members headed by Sub-Inspector of Police along with secret informer had allegedly intercepted the petitioner and during the enquiry, after dropping the gunny bag, the said accused had escaped from the scene of occurrence.

7.As rightly contended by the learned counsel for the petitioner, the petitioner was allegedly intercepted in the plain place and not in the hilly area.

8.As rightly contended by the learned counsel for the petitioner, the contention of the petitioner that the petitioner, after allegedly intercepted by three member police team and during the enquiry by dropping the gunny bag, fled away from the occurrence place appears is quite to be unbelievable.

9.As already pointed out, according to the prosecution, the petitioner is not having any previous cases under NDPS Act.

10.Except the alleged version of the prosecution that the petitioner had fled away from the occurrence place, there is no other material or evidence available to connect the petitioner with the contraband of question.

11.Considering the above facts and circumstances and also the facts that there was no recovery of contraband from the petitioner



Act, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

12. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Principal District Special Court for NDPS Act Cases, Madurai, on condition that the petitioner shall execute a bond for a sum of **Rs.50,000/- (Rupees Fifty Thousand only)** with two sureties each for a like sum to the satisfaction of the learned Sessions 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 Sessions Judge may obtain a copy of their Aadhaar 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 the 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 Sessions 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 Sessions 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 absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
18/05/2022

/ TRUE COPY /

19/05/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

CSM

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 PRINCIPAL DISTRICT SPECIAL JUDGE
FOR NDPS ACT CASES, MADURAI.

2 THE INSPECTOR OF POLICE
DINDIGUL TALUK POLICE STATION,
DINDIGUL DISTRICT.

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

ORDER

IN

CRL OP(MD) No.5654 of 2022

Date :18/05/2022

PKP/SVR/SAR-2/19.05.2022/4P/4C