



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 07/04/2022

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PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.6161 of 2022

Vijaya

... Petitioner/3rd Accused

Vs

The State rep.by,
The Sub Inspector of Police,
Sivagiri Police Station,
Tenkasi District.
(Crime No.107/2022)

... Respondent/Complainant

For Petitioner : Mr.M.Kaliraj,
Advocate.

For Respondent : Mr.E.Antony Sahaya Prabahar,
Government Advocate (Crl.Side)

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

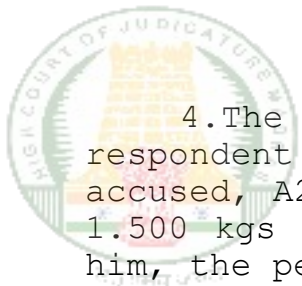
PRAYER :-For Anticipatory Bail in Crime No.107 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 8 (c), 20(b)(ii)(B), 25 and 29(1) of Narcotic Drugs and Psychotropic Substances Act, 1985, in Crime No.107 of 2022, seeks anticipatory bail.

2.The case of the prosecution is that when the respondent Police searching the suspected persons, the accused 1 and 2 ran away from the place of occurrence after seeing the police party. Thereafter, the respondent police secured the first accused and recovered 1.500 kgs of Ganja. Hence, the present complaint.

3.The learned counsel for the petitioner would submit that the petitioner is innocent and not committed any offence as alleged by the prosecution. He would further submit that based on the confession statement given by the co-accused, he has been falsely implicated in this case.



4.The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner is the wife of the first accused, A2 is their son, that the first accused is in possession of 1.500 kgs Ganja and only on the basis of the confession taken from him, the petitioner was added as an accused.

5.Admittedly, there was no recovery from the petitioner and she was implicated only on the basis of the confession alleged to have been taken from the co-accused. He would further submit that the petitioner is having one previous case under the NDPS Act, but the quantity of contraband recovered from her was 100 grams.

6.Considering the facts and circumstances of the case and considering the fact that there was no recovery from the petitioner and as rightly contended by the learned counsel for the petitioner except the confession statement given by the co-accused, there is no other material or evidences to implicate the petitioner, with the crime in question, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Sivagiri, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five 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 Magistrate 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 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 at 10.30 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 Magistrate/ 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 Magistrate/Trial Court 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/-
07/04/2022

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/ /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 JUDICIAL MAGISTRATE
SIVAGIRI
- 2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
- 3 THE SUB INSPECTOR OF POLICE
SIVAGIRI POLICE STATION, TENKASI DISTRICT
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to MR.V.PALPANDI, Advocate (SR-3168[I] dated 08/04/2022)

ORDER
IN
CRL OP(MD) No.6161 of 2022
Date :07/04/2022

DAS
MK/VR/SAR.II/20.04.2022/3P/6C