



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Reserved on : 29/04/2022
Delivered on : 05/05/2022

PRESENT

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The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.6185 of 2022

Baskaran : Petitioner/Accused No.5

Vs

State rep by its,
The Inspector of Police,
Mathichiyam Police Station,
Mathichiyam,
Madurai City.
Cr.No.137 of 2021.

: Respondent/Complainant

For Petitioner : Mr.A.Jeyaram,
Advocate.

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

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

PRAYER :-

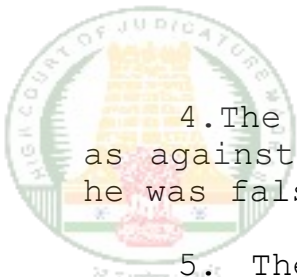
For Bail in Crime No.137 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused No.5, who was arrested and remanded to judicial custody on 30.04.2021 for the offence punishable under Section 8(c), 20(b)(ii)(c) and 29(1) of NDPS Act, 1985, in Cr.No.137 of 2021, on the file respondent police, seeks bail.

2.The case of the prosecution is that on 14.04.2021 at about 09.15 am, on receiving secret information, the respondent Police went to Vaigai Vadakarai Road, old debris building Mathina Mosques at about 10.15 am, they had seen some persons standing near the said building and after search, the respondent Police party found the accused Nos.1 and 2 were in possession of 30 kgs of Gangja. Hence, the complaint.

3.It is the further case of the prosecution that on the basis of the confession taken from the accused Nos.1 and 2, A3 to A6, including the petitioner herein were added as accused and the petitioner was arrested on 30.04.2021 and is in judicial custody.



4.The petitioner's case is that there is no specific overt act as against the petitioner in the FIR, that he is innocent and that he was falsely implicated in the above case.

5. The learned counsel for the petitioner would submit that there is no recovery from the petitioner and the said contraband was alleged to have recovered only from the accused Nos.1 and 2 and that the petitioner was implicated only on the basis of the confession alleged to have taken from the co-accused.

6.The learned counsel for the petitioner would further submit that the contraband allegedly seized is not Ganja and it is only the broken pieces of dry cow dung and also the quantity mentioned in the FIR is not exact and that since the petitioner was no way connected with the case and as no such occurrence had happened, he was falsely implicated.

7.The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner had actively participated in the transportation, storing and selling of commercial quantity of Ganja, that he was regularly involved in Ganja trading offences for high profit along with other accused, that they have been procuring Ganja from Andhara Pradesh and have big nexus as evident from the confession statement and that the petitioner is having three previous cases for the offence under the provisions of IPC and SC/ST (POA) Act.

8.Admittedly, there was no recovery from the petitioner. As already pointed out, the petitioner was implicated only on the basis of the confession statement alleged to have taken from the accused Nos.1 and 2.

9.As rightly contended by the learned counsel for the petitioner, except the confession statement of the co-accused, the respondent has neither produced nor shown any material or evidence to connect the petitioner with the crime in question.

10.Moreover, though the petitioner is having three cases under IPC and SC/ST (POA) Act, is not having any previous case under the NDPS Act.

11.Considering the facts and circumstances of the case and also the fact that except the confession statement of the co-accused, there is no other material to link the petitioner with the alleged offence and also the fact that the petitioner is not having any previous case under the NDPS Act, this Court is satisfied that there are reasonable grounds for believing that the petitioner is not guilty of such offence and that he is not likely to commit any such offence, after coming out on bail, as contemplated under Section 37 of NDPS Act and that therefore, this Court is inclined to grant

<https://hcservices.courts.mdpn/hcservices> petitioner subject to the following conditions.



12. Accordingly, the petitioner is ordered to be released on bail on his executing 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 I Additional Special Judge, Special Court for NDPS Act Cases, Madurai.

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(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 am 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/-

05/05/2022

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05/05/2022

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 IST ADDITIONAL SPECIAL JUDGE,
SPECIAL COURT FOR NDPS ACT CASES,
MADURAI.

2. THE INSPECTOR OF POLICE,
MATHICHIYAM POLICE STATION,
MATHICHIYAM,
MADURAI CITY.



3. THE SUPERINTENDENT,
CENTRAL PRISON,
MADURAI.

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

+1 CC to M/s.A.JEYARAM, Advocate (SR-4321[I] dated 05/05/2022)

ORDER

IN

CRL OP(MD) No.6185 of 2022

Date :05/05/2022

DAS

USK/JM/SAR-III/05.05.2022/4P/6C