



WEB COPY

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

Reserved on : 29.04.2022

Pronounced on : 05.05.2022

PRESENT

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

CRL OP(MD) . No.6304 of 2022

A.Rajesh

... Petitioner/Accused No.3

Vs

State represented by
The Inspector of Police,
Pattiveeranpatti Police Station,
Pattiveeranpatti,
Dindigul.
(Crime No.288 of 2021)

... Respondent/Complainant

For Petitioner : Mr.J.Lawrence, Advocate.

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

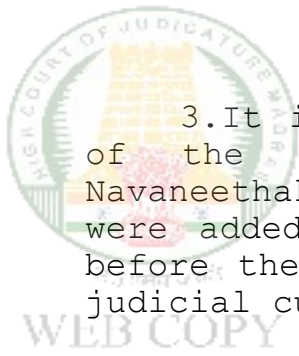
PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-For Bail in Crime No.288 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/Accused, who was arrested and remanded to judicial custody on 21.01.2022 for the offences punishable under Sections 8(c), 20(b)(ii)(c) and 25 of Narcotic Drugs and Psychotropic Substances Act, 1985, in Crime No.288 of 2021, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 02.05.2021, at about 03.30 hours, on receiving secret information, the respondent Police went to the Village Panchayat Office of Sitharevu Village for surveillance and they found that the first accused Navaneethan and two others were possessing plastic bag in a two wheeler bearing Registration No.TN 57 BJ 8413, that on seeing the Police Party, all the accused had attempted to escape from the place, but the Police Officials caught hold one accused Navaneethakrishnan and that the contraband of 22 kgs of Ganja was recovered from him and he was



3.It is the further case of the prosecution that on the basis of the confession statement taken from the said accused Navaneethakrishnan, Prasanna and the Rajesh the petitioner herein were added as accused and that the petitioner/A3 has surrendered before the respondent Police on 21.01.2022 and he was remanded to judicial custody.

4.The Petitioner's case is that he is innocent that he has no way connected with the alleged occurrence, that the petitioner is a driver, employed under the second accused Prasanna, who possess sizable extent of Coconut Grove in Ayyampalayam Village, Authoor Taluk, Dindigul District and owned Tractor, that the second accused was also a Construction works Contractor and that the petitioner was employed as a driver of the second accused from 2019 onwards.

5.It is further case of the petitioner that there existed motive between the second accused and the Sub-Inspector of Police attached to the respondent Police, that the contraband was allegedly recovered from the first accused and that he has been falsely implicated along with his employer/second accused.

6.The learned counsel for the petitioner would submit that there was no recovery from the petitioner and that he was implicated only on the basis of the confession said to have taken from the first accused. He would further submit that the petitioner is not having any previous case under the NDPS Act or any other Act, that he came to know about the registration of the case against him through his owner/second accused during the second week of October, that the petitioner at the instance of the second accused has approached this Court for anticipatory bail, but the same was dismissed and that thereafter, the petitioner was advised to surrender before the respondent Police and accordingly, he surrendered before the respondent Police on 21.01.2022 and then only he was arrested and remanded to judicial custody.

7.The learned Additional Public Prosecutor appearing for the State would submit that the petitioner is the local seller and distributor of the contraband, which was bought by the second accused from Andhra Pradesh, that the petitioner is regularly involved in Ganja trade related offences as evident from the confession of the co-accused, that the respondent after completing the investigation, has laid the final report and the same was taken on file in C.C.No.563 of 2021 and the same is pending on the file of the Special Court for Essential Commodities and NDPS Act Cases, Madurai.

8.The learned Additional Public Prosecutor would also submit that the petitioner is not having any previous case under the NDPS Act.



9. Admittedly, there was no recovery from the present petitioner. As already pointed out, the petitioner was implicated only on the basis of the confession alleged to have taken from the co-accused.

10. As rightly contended by the learned counsel for the petitioner, except the confession statement of the co-accused, the prosecution has neither produced nor shown any materials or evidence to link the petitioner with the crime in question.

11. Considering the above facts and circumstances 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 bail to the 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.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Special Judge for Essential commodities and NDPS Act Cases, Madurai.

(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.

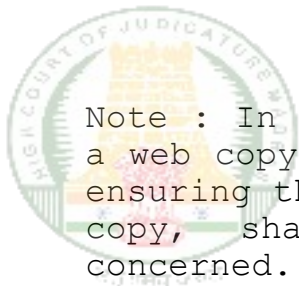
sd/-

05/05/2022

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06/05/2022

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.

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- TO
- 1 THE SPECIAL JUDGE FOR ESSENTIAL COMMODITIES & NDPS ACT CASES,
MADURAI.
 - 2 THE INSPECTOR OF POLICE
PATTIVEERANPATTI POLICE STATION,
PATTIVEERANPATTI, DINDIGUL.
 - 3 THE OFFICER INCHARGE,
SUB JAIL, THENI.
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1 CC to MR.J.LAWRANCE, Advocate (SR-4387 dated 06.05.2022)

ORDER
IN
CRL OP(MD) No.6304 of 2022
Date :05/05/2022

das
RS/VR/SAR.4/06.05.2022/4P/6C