



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Reserved on : 14.06.2022
Delivered on : 17.06.2022

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.6516 of 2022

WEB COPY

Pasumpon

... Petitioner/Accused No.7

Vs

State represented by
The Inspector of Police,
Kannivadi Police Station,
Dindigul District.
(Crime No.30 of 2022)

... Respondent/Complainant

For Petitioner : Mr.Jegadeesh Pandian, Advocate.
For Respondent : Mr.T.Senthil Kumar,
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime No.30 of 2022 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/A.7, who was arrested and remanded to judicial custody on 01.02.2022 for the offences punishable under Sections 8 (c) r/w 20(b)(ii)(c) and 29(1) of NDPS Act in Crime No.30 of 2022, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 30.01.2022 at about 06.15 hours, on receiving secret information, the respondent Police went to the place near Kurumbapatti Pirivu, Karamadai-Karisalpatti Road, and at about 07.00 hours, on seeing the police party, 6 members gang had tried to flee away from that place; that the respondent Police had chased and apprehended them; that on checking, they were found in possession of 22 kgs of Ganja; that the first accused had confessed that they have purchased the contraband from the 6th accused Priya @ Sugapriya and on that basis, FIR came to the registered in Crime No.30 of 2022 for the offence under Sections 8 (c) r/w 20(b)(ii)(c) and 29(1) of NDPS Act.

3.It is the further case of the prosecution that the respondent Police arrested the sixth accused Priya @ Sugapriya on 01.02.2022 along with the petitioner Pasumpon and 1.5 kgs of Ganja was recovered from them.



4.The petitioner's case is that he is innocent and he has not committed any offence as alleged by the prosecution and he has been falsely implicated in the above case.

5.The learned counsel for the petitioner would further submit that the respondent Police has not followed the mandatory provision under Sections 42, 50, 52 A and 57 NDPS Act; that they have also not followed the mandatory provision under Section 50 (6) of NDPS Act and that since 1.5 kgs of Ganja alone was allegedly recovered from the petitioner as well as the sixth accused, Section 37 of NDPS Act has no application and that since the petitioner is not having any previous case under NDPS Act, he is entitled to be enlarged on bail.

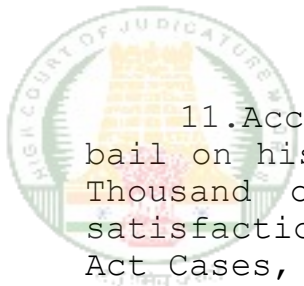
6.The learned Additional Public Prosecutor appearing for the State would submit that the accused 1 and 6 were already detained under the Goondas Act; that the investigation revealed that the petitioner was actively involved in Ganja trade; that the respondent has recovered 23.5 kgs of Ganja from the accused in the above case and that therefore, Section 37 of NDPS Act is very much applicable to the present case.

7.Admittedly, 22 kgs of Ganja was recovered from the accused 1 to 5 on 30.01.2022 and on the basis of the confession allegedly taken from the first accused, sixth accused was arrested on 01.02.2022 and at that time, since the petitioner was also available with the sixth accused, he was also arrested and 1.5 kgs of Ganja was alleged recovered from them.

8.Though the prosecution has alleged that the first accused has given a confession statement that they have purchased the contraband of 22 kgs of Ganja from the sixth accused, the prosecution has not produced any material to link the seventh accused with the accused 1 to 5 or with the contraband of 22 kgs recovered from the accused 1 to 5.

9.As rightly contended by the learned counsel for the petitioner that since 1.5 kg of Ganja was allegedly recovered from the petitioner and the sixth accused, the question of invoking Section 37 of NDPS Act does not arise at all. Even according to the prosecution, the petitioner is not having any previous case under the NDPS Act.

10.Considering the above facts and circumstances of the case and also the fact that the petitioner is not having any previous cases under 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. Hence, this Court is inclined to grant bail to the petitioner subject to the following conditions:



11. 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 Principal Special Court for EC & NDPS Act Cases, Madurai.

(i) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

(ii) the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders;

(iii) the petitioner shall not tamper with evidence or witness.

(iv) the petitioner shall not abscond during trial.

(v) 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]***.

(vi) If the accused / petitioner thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-

17/06/2022

/ TRUE COPY /

17/06/2022

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 JUDGE, PRINCIPAL SPECIAL COURT FOR EC & NDPS ACT CASES, MADURAI.

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

3 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

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

+1 CC to M/s.M.JEGADEESH PANDIAN, Advocate (SR-5723[I] dated 17/06/2022)

ORDER IN

CRL OP(MD) No.6516 of 2022

Date :17/06/2022

RS/VR/SAR.1 (17.06.2022) 3P-6C

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