



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 29/04/2022
PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL OP(MD) . No.7234 of 2022

Rajjiya Prabhu @ Karuvayan

... Petitioner/Accused No.2

Vs

State Rep.by
The Inspector of Police,
Subramaniapuram Police Station,
Madurai.
Crime No.357/2021.

... Respondent/Complainant

For Petitioner : Mr.Niranjana S.Kumar, Advocate
for M/s.Muruga Ganesan S, Advocate
For Respondent : Mr.P.Kottaichamy,
Government Advocate (Crl.Side)

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

PRAYER :-

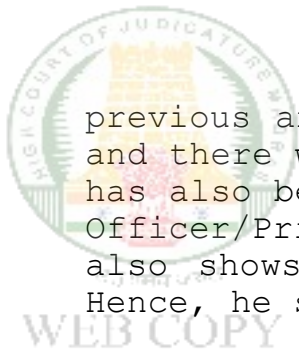
For Bail in Crime No.357/2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who is arrayed as A2 was arrested on 26.06.2021 and remanded to judicial custody for the alleged offences punishable under Section 20(b)(ii)(c), 25 and 8(c) of Narcotic Drugs & Psychotropic Substances Act, 1985, in Crime No.357 of 2021 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 26.06.2021, at about 06.30 a.m, on the basis of the secret information, the police team intercepted the Car bearing Registration No.TN-58-BW-0155 and two wheeler bearing Registration No.TN-58-AF-0322 and the accused were found in possession of 40 Kgs of Ganja. Hence, the present case has been registered against petitioner.

3.The learned counsel for the petitioner would submit that the petitioner is innocent person and he has been falsely implicated in this case. He would further submit that this is the second bail application. Earlier bail application filed by the petitioner in Crl.OP(MD)No.17062 of 2021 was dismissed by this Court on 22.12.2021. The petitioner is having no previous case and no



previous antecedents and contraband has been recovered only from A1 and there was no recovery from the petitioner. Further, charge sheet has also been filed before the I Additional District Judge/Presiding Officer/Principal Special Court for EC & NDPS Act Cases, Madurai. It also shows that no recovery was made from the petitioner herein. Hence, he seeks bail to the petitioner.

4.The learned Government Advocate (Crl.Side) appearing for the State would submit that the earlier bail application that was filed by the petitioner came to be dismissed by this Court by the order dated 22.12.2021 on the ground that the twin conditions that has been mentioned in Section 37 of the NDPS Act, was not complied by the petitioner. This is the second bail application. There is no change of circumstances. Hence, this petition is liable to be dismissed.

5.It is seen that in the place of occurrence itself, the petitioner was arrested along with the co-accused. On that ground, the earlier bail application was dismissed. But, the present bail application has been filed mainly on the ground that contraband has been recovered only from the first accused. Even in the final report, except the confession statement of the co-accused, no other allegation has been made against the petitioner.

6.According to the learned counsel for the petitioner, even if the trial is ordered to be undertaken that will not end in conviction. Another ground has been made by the petitioner is that the concerned vehicle has been taken only from the house of the petitioner and not from the place of occurrence itself. It is also further contended that even on earlier hearing, it has been submitted before this Court that final report was filed before the concerned Court. Now, it is seen that it has been taken cognizance in C.C.No.389 of 2021.

7.On perusal of the entire CD file shows that serious allegation has been made against the petitioner and other accused to the effect that they purchased the contraband from Andhra Pradesh, transporting the same to Tamilnadu and thereafter, distributed the same for selling in small packets.

8.Even though, the petitioner is in custody for more than 200 days, considering the gravity of offence, this Court is not inclined to enlarge the petitioner on bail since it is the second bail application and final report was filed before the concerned Court. The petitioner may approach the Trial Court for granting bail and he need not approach this Court once again seeking bail.

9.I find that there is no change of circumstance. Even though, it is contended that the petitioner is not involved in any other similar nature, except this case, considering the antecedents of the



such contention can not be taken at this stage. He can work out his remedy before the concerned Court as mentioned above.

10. With the above said liberty, this Criminal Original Petition is dismissed.

WEB COPY

sd/-
29/04/2022

/ TRUE COPY /

13/05/2022
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 SUPERINTENDENT,
CENTRAL PRISON,
MADURAI.
- 2 THE INSPECTOR OF POLICE
SUBRAMANIYAPURAM POLICE STATION,
MADURAI.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.7234 of 2022
Date : 29/04/2022

RS/VR/SAR.4 (13.05.2022) 3P-4C