



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

Date : 29/04/2022

PRESENT

The Hon`ble Mr.Justice R.THARANI

CRL OP(MD) . No.7439 of 2022

Suriya @ Yesu

... Petitioner/Accused No.3

Vs

The State Rep. By,
The Inspector of Police,
Thideer Nagar Police Station,
Madurai District.
(Crime No.222 of 2021).

... Respondent/Complainant

For Petitioner : M/s.C.Karthikeya
Advocate.

For Respondent : Mr.R.Suresh Kumar
Government Advocate

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

PRAYER :-

For Bail in Crime No.222 of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/Accused No.3 herein, who was arrested on 26.06.2021 for the alleged offence under Sections 8(c) r/w 20(b)(ii) (c) of NDPS Act, r/w Section 83(2) of the Juvenile Justice Act, 2015 in Crime No.222 of 2021, on the file of the respondent police and the same was taken on file as C.C.No.329 of 2021 on the file of the Principal Special Court for EC and NDPS Cases, Madurai, seeks bail.

2.The case against the petitioner is that he was found in joint possession of 24 kilograms of ganja and a case in Crime No.222 of 2021 was registered against the petitioner and others and the case was taken on file as C.C.No.329 of 2021 on the file of the Principal Special Court for EC and NDPS Cases, Madurai. The petitioner was arrested and is in custody.

3.The petitioner has filed a petition in Crl.M.P.No.1114 of 2021 before the Special Court for bail. That petition was dismissed by the Special Court. Hence the petitioner come forward with the present petition for bail. Earlier, bail petition filed by the



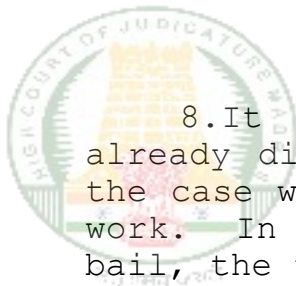
petitioner before this Court in Crl.O.P.(MD)No.262 of 2022 was dismissed on 07.01.2022. The second bail petition filed by the petitioner in Crl.O.P.No.4781 of 2022 was dismissed on 17.03.2022.

4.On the side of the petitioner, it is stated that the petitioner is A3 in this case. There are 7 accused in total. Under Section 15 of the NDPS Act, it is mandatory for the prosecution to prove that the recovery was made from the accused in the presence of the Magistrate. There is no recovery from the petitioner. All the contraband were recovered from the first accused and not from the petitioner. No confession statement was recorded from the petitioner and that the petitioner is having no previous case. The judgment of the Hon'ble Supreme Court in Crl.A.No.273 of 2007 dated 27.04.2018 is cited.

5.On the side of the petitioner, it is further stated that the co-accused has filed a bail petition before this Court and this Court has directed the case to be disposed of within a period of 5 months. But even now charge sheet was not filed. There is no possibility of the case to be disposed of in the near future. The petitioner is not having any previous case of similar nature. From whom the petitioner purchased the contraband, was not explained. It is further stated that in similar cases, in Crl.O.P.(MD)No.819 of 2022 dated 16.02.2022 and Crl.O.P.(MD)Nos.3947 and 3949 of 2022 dated 10.03.2022 this Court has granted bail and pray a similar order to be granted in this case.

6.On the side of the respondent, it is stated that the quantity of the contraband involved is commercial in nature. The petitioner is having two previous cases. The twin conditions under Section 37 of NDPS Act were not satisfied and prayed the petition to be dismissed.

7.On the side of the respondent it is stated that totally 7 accused were involved in the case. Seven persons were arrived as accused in the First Information Report. The petitioner herein is arrayed as Accused No.3 in the First Information Report. Final report was filed on 28.07.2021 for the offences punishable under Sections 8(c) r/w 20(b)(ii)(c) of NDPS Act, r/w Section 83(2) of the Juvenile Justice Act, 2015. The juvenile accused was released on bail under the Juvenile Justice Act and all the other accused are still in custody. All the procedures contemplated under Section 42, 50 and 52A and 57 of NDPS Act were duly complied with in this case. There are materials available against the petitioner. The bail application filed by the co-accused in Crl.O.P.(MD)Nos.400 and 401 of 2022 were dismissed by this Court on 12.01.2022 with a direction to dispose of the cases within a period of five months, after the resumption of normal work. The order was passed during the lock down period. There is no mitigating circumstances to consider the bail application and pray the petition to be dismissed.



8.It is seen that the petition filed by the co-accused were already dismissed. There is a direction by this Court to dispose the case within a period of 5 months after the resumption of normal work. In the above circumstances, if the petitioner is released on bail, the trial may be affected.

9.The offence against the petitioner is serious in nature and considering the seriousness of the offence, considering the pendency of the case, considering the fact that the case is pending for trial, and considering the fact that there is a direction from this Court to dispose of the case within a short period, this Court is not inclined to allow the petition at the present stage.

10.Accordingly, this Criminal Original Petition stands dismissed.

sd/-

29/04/2022

/ TRUE COPY /

/ /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 I ADDITIONAL SPECIAL SESSIONS JUDGE
FOR EC AND NDPS CASES, MADURAI.
2. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
3. THE INSPECTOR OF POLICE,
THIDEER NAGAR POLICE STATION,
MADURAI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO :

THE REGISTRAR (JUDICIAL),
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN

CRL OP(MD) No.7439 of 2022

Date :29/04/2022