



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

Dated: 01/07/2022

PRESENT

**The Hon'ble Mr.Justice G.ILANGO VAN**

Crl.OP(MD)No.8850 of 2022

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Sathiyamoorthy

... Petitioner/Accused No.8

**Vs.**

State rep. By  
The Inspector of Police,  
Vedaranyam Police Station,  
Nagapattinam District.  
(Crime No.166 of 2017)

... Respondent/Complainant

For Petitioner : Mr.K.S.Duraipandian  
For Respondent : Mr.T.Senthil Kumar  
Additional Public Prosecutor

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

**PRAYER :-**

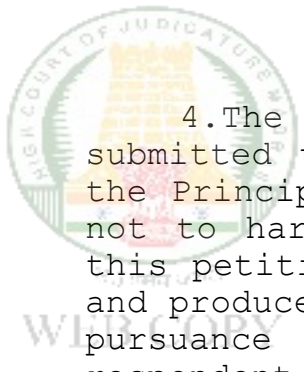
For Bail in Crime No.166 of 2017 on the file of the Respondent Police.

**ORDER :** The Court made the following order:-

The petitioner, who is arrayed as A8 was arrested, on 23/02/2022 and remanded to judicial custody for the alleged offences punishable under sections 8(c) r/w 20(b)(ii)(c) of NDPS Act, in Crime No.166 of 2017, seeks bail.

2.The case of the prosecution is that on a secret information, the police team went to the place of occurrence and found the storage of contraband. At that place, the accused namely Samynathan, Varadharajan and Rajakilli were found. It was found that 55 kgs of Ganja was packed in 9 bundles. Based upon that, further process was undertaken.

3.Seeking bail, this petition has been filed by the petitioner on the ground that on the mistaken identity, he was arrested by the police and in the FIR, his name is not found place. According to him, the real accused is one Subbhu s/o.Dhanapal, Vadaranyam. His original name is D.Sathiyamoorthi and he is not having any nick name as 'Subbhu'. According to him, it is a clear case of misidentification and not involved in such occurrence.



4.The learned counsel appearing for the petitioner submitted that the petitioner moved Crl.OP No.22026 of 2021 before the Principal Seat of this court seeking a direction from the court not to harass him under the guise of enquiry. In that petition, this petitioner was directed to appear before the respondent police and produce the documents showing that he is only Sathiyamoorthy. In pursuance of the above said order, he also appeared before the respondent police and produced the documents showing that his real name is Sathiyamoorthy and not Subbhu as mentioned in the FIR.

5.From the additional typed set of papers, it is seen that a request was made by the petitioner to the company namely 'CHAMPLAST SANMAR LIMITED' for verification of his attendance register, EPF records and gate entry and exist details. The said company gave a reply stating that this petitioner was not employed directly by the company, but by the contractor. So he was advised to contact the above said contractor. With regard to the other documents, such as EPF records, if the petitioner is a member of the EPF account, he can very well download from the web-site.

6.The petitioner has produced the document showing that his name is Sathiyamoorthy and he was not called by any other name or alias name. In spite of the above said, it appears that the petitioner has not approached the contractor, who employed him, for supplying the relevant documents.

7.No doubt that from this document, we can say that his name is Sathiyamoorthy. But whether he is involved in the offence, is a matter for trial. Even though, materials have been collected during the course of investigation to show that he is also called as 'Subbhu', I am not going into those aspects, which requires thorough trial process.

8.The learned Additional Public Prosecutor would submit that A1 is related to this petitioner and only from the confession of A1, the involvement of the petitioner came to light. Since there is dispute with regard to the identity of the petitioner and no bad antecedent has been reported against him, I am of the considered view that he can be enlarged on bail, since reasonable doubt has been created with regard to the identity of the person involved in the occurrence, I am of the considered view that this identity dispute is enough for satisfying the requirement of section 37 of the Act. As mentioned above, no bad antecedent is reported against the petitioner/A3.

9.So for the reasons stated above, this court is inclined to grant bail to the petitioner with certain conditions. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned



Crl.OP(MD)



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Additional District Judge/Presiding Officer, Special Court EC Act, Thanjavur and on further condition that the petitioner shall report before the respondent police daily at 10.30 am until further orders.

sd/-

01/07/2022

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01/07/2022

Sub-Assistant Registrar (C.S.)  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

To

- 1 THE ADDITIONAL DISTRICT JUDGE / PRESIDING OFFICER,  
SPECIAL COURT UNDER EC ACT, THANJAVUR.
- 2 THE INSPECTOR OF POLICE, VEDARANYAM POLICE STATION,  
NAGAPATTINAM DISTRICT.
- 3 THE OFFICER INCHARGE, SUB JAIL, NAGAPATTINAM.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.8850 of 2022

Date :01/07/2022

RS/VR/SAR.1 (01.07.2022) 3P-5C