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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

RESERVED ON : 10/02/2022

PRONOUNCED ON: 16/02/2022

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP (MD) . No.14417 of 2021

Dinesh

... Petitioner/Accused No.3

Vs

State rep.by
The Inspector of Police,
Pettai Police Station,
Tirunelveli City,
Tirunelveli District.
(Crime No.288 of 2021).

... Respondent/Complainant

For Petitioner : M/s.Selvakumar.S, Advocate.

For Respondent : M/d.E.Antony Sahaya Prabhar,
Additional Public Prosecutor

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

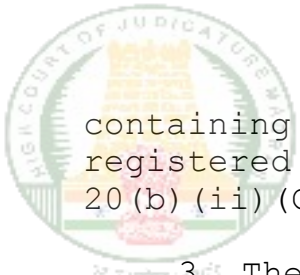
PRAYER :-

For Anticipatory Bail in Crime No.288 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/accused No.3, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 8 (C), 20(b)(ii)(C) and Section 29(1) of NDPS Act, in Cr.No.288 of 2021, seeks anticipatory bail.

2. The case of the prosecution is that on 28.08.2021 at about 09.00a.m., on receipt of secret information, the respondent police had intercepted the accused and found that he was carrying a bag



containing ganja weighing 25kg and on that basis, F.I.R., came to be registered in Cr.No.288 of 2021 for the offences under Section 8(C), 20(b) (ii) (C) and Section 29(1) of NDPS Act.

3. The learned Counsel for the petitioner would submit that the petitioner is innocent and he has not committed any offence, that no contraband was recovered from him, that the petitioner was not at all available at the time of occurrence and that the petitioner was falsely implicated in this case.

4. The learned Additional Public Prosecutor appearing for the State would submit that only on the basis of the confession statement of the co-accused, the petitioner was implicated, that the petitioner is having a previous case for similar offence in Cr.No.213 of 2021 and that therefore, the petitioner is not entitled to get anticipatory bail.

5. The learned Counsel for the petitioner would submit that in earlier case registered in Cr.No.213 of 2021, 1.200kg of ganja was allegedly recovered and that since the petitioner was in judicial custody for more than 36 days, he was granted bail by the Principal Special Court for EC and NDPS Act Cases, Madurai in Cr.M.P.No.1312 of 2021, dated 25.08.2021.

6. It is settled law that the twin conditions contemplated under Section 37 of NDPS Act are conjunctive and the Court before granting bail has to satisfy that there are reasonable grounds for believing that the petitioners are not guilty of such offence and that they are not likely to commit such offence again, while on bail.

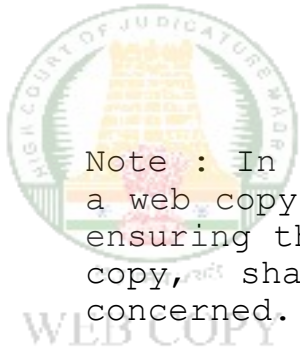
7. Considering the above, this Court is of the view that since the previous case is pending against the petitioner, this Court cannot record a finding that the petitioner is not likely to commit such an offence while on bail.

8. Hence,, this Court is not inclined to grant anticipatory bail to the petitioner at this point of time. Accordingly, the Criminal Original Petition is dismissed.

Sd/-
16/02/2022

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/ /2022
Sub-Assistant Registrar (C.S.II)
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 INSPECTOR OF POLICE,
PETTAI POLICE STATION,
TIRUNELVELI CITY,
TIRUNELVELI DISTRICT.
2. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.14417 of 2021
Date :16/02/2022

SP/SBN/SAR II/22/02/2022/3P/3C