



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Dated: 08/02/2022

PRESENT

The Hon'ble Mr.Justice G.ILANGO VAN
Crl.OP(MD)No.17004 of 2021

WEB COPY

Rajkumar

: Petitioner/Accused No.4

Vs.

State rep.by
The Inspector of Police,
Palani Town Police Station,
Dindigul.
(Crime No.349 of 2021)

: Respondent/Complainant

For Petitioner : Mr.V.Vishnu, Advocate
For Respondent : Mr.SS.Madhavan
Government Advocate (Crl. side)

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

PRAYER :-

For Bail in Crime No.349 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order:-

The petitioner, who is arrayed as 4th Accused was arrested and remanded to judicial custody on 27.04.2021 for the offences punishable under sections 8(c), 20(b)(ii)(C) and 25 of Narcotic Drugs and Psychotropic Substances Act, in Crime No.349 of 2021 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 27.04.2021 when the respondent police along with his personnel were on vehicle inspection on Dindigul-Udumalai Bye-pass road, at the time the Car bearing registration No.TN-58-BE-2515 and Lorry No.TN-09-AP-8944 were intercepted and on seeing the police, the accused persons tried to flee away and on enquiry, they were found in possession of 50 kgs of ganja.

3.Heard both sides.

4.Reading of the FIR shows that this petitioner is also involved in illegal possession of 50 kgs of ganja. During the course of argument, the learned counsel appearing for the petitioner would submit that this petitioner is suffering from mental illness and without knowing that the concerned vehicle is loaded with the



contraband, he travelled in the same as a gratuitous passenger and except this, the petitioner is not involved in this offence.

5. Reading of the FIR shows that this petitioner was also found in occupation of the vehicle carrying the contraband. The contention on the part of the petitioner that without knowing the illegal transportation of the contraband, also travelling in the vehicle as a gratuitous passenger, cannot be taken into account and it is a matter for investigation. The earlier bail application, that was filed by the petitioner came to be dismissed by this court in Crl.OP (MD)No.9991 of 2021, dated 28/07/2021 on the ground that this petitioner has not satisfied the requirement of section 37 of the NDPS Act. Considering the fact that the contraband is of the commercial quantity, that petition came to be dismissed. Now this petition has been filed only on the ground that the petitioner is suffering from mental illness.

6. For the purpose of ascertaining the mental capacity of the petitioner, a detailed medical report has been called for and the report was submitted, wherein we find that based upon his YMRS Scale, the petitioner is under remission and no manic Symptoms at present, patient is advised to continue his psychiatric medications, according to the physician opinion. It is further seen that the petitioner is suffering from Bipolar Affective disorder, even though his physical condition found to be fit. So I am of the considered view that since the petitioner has been advised to carry on the medication, as per section 103 of the Mental Health Care Act, it is the duty of the Magistrate before whom the prisoner is produced to admit him in suitable establishment for the purpose of treatment. Releasing him on bail cannot be ordered. But at the same time, the custody order can be passed and the petitioner can be subjected to the continuous medical treatment at the care and custody of his parents. The petitioner is about 38 years. So, considering the age of the petitioner, the custody of the petitioner can be given to the parents of the petitioner on filing an affidavit.

7. Now the father/mother of the petitioner filed an undertaking affidavit before this court stating that he/she will admit the petitioner in a proper mental care institution for continuing the medical treatment.

8. In the light of the above, this petition is ordered on the following conditions:-

(i) The custody of the petitioner is handed over to his father/mother on condition that he/she must take care of the petitioner by giving proper care and treatment in an appropriate recognized hospital, which is specialised in giving treatment to the mental illness;



(ii) On no account, the father/mother of the petitioner shall remove the petitioner, out of the hospital without permission of the court and permission can be granted only after ascertaining the mental condition of the petitioner and to remove him from the hospital; and

WEB COPY

(iii) An affidavit must be filed by the father/mother of the petitioner stating that he/she has admitted the petitioner in the prescribed hospital for continuing the treatment, after releasing the petitioner from the prison. The affidavit must be filed within 10 days after the admission is made in the hospital.

9. With the above said conditions, this petition stands **ordered**.

sd/-

08/02/2022

/ TRUE COPY /

11/02/2022

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 INSPECTOR OF POLICE
PALANI TOWN POLICE STATION,
DINDIGUL.
- 2 THE OFFICER INCHARGE,
DISTRICT JAIL, DINDIGUL.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.17004 of 2021

Date : 08/02/2022

RS/VR/SAR.3(11.02.2022) 3P-4C