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

Date : 17.06.2022

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP (MD) . Nos.19303 to 19305 of 2021

Chithambaram (Kutty)

...Petitioner/Accused No.7
in Crl OP(MD)No.19303 of 2021

...Petitioner/Accused No.3
in Crl op(MD)No.19304 of 2021

... Petitioner/Accused No.9
in Crl op(MD)No.19305 of 2021

Vs

State Rep.by
The Inspector of Police,
Kumbakonam West Police Station,
Thanjavur District.
(Crime No.1135/2021)
(Crime No.912/2021)

... Respondent /Complainant
in Crl OP(MD)Nos. 19303 & 19305 OF 2021

I

State Rep.by
The Inspector of Police,
Ammamet Police Station,
Thanjavur District.
(Crime No.772/2021)

... Respondent/Complainant
in CRL OP(MD)No. 19304 of 2021

I

IN ALL PETITIONS

For Petitioner : Mr.V.Kathirvelu, Senior Counsel
for Mr.K.Prabhu, Advocate

For Respondent : Mr.T.Senthilkumar
Additional Public Prosecutor



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

COMMON PRAYER :-

For Anticipatory bail in Crime Nos.1135, 912 & 772 of 2021 on the file of the Respondent police.

COMMON ORDER : The Court made the following order :-

The petitioner, who apprehend arrest at the hands of the respondent Police, for the alleged offences punishable under Sections 8(C), 20(b)(ii)(c) of NDPS Act, 1985 in Crime Nos.1135, 772 and 912 of 2021 respectively on the file of the respondent Police, seeks anticipatory bail.

2. The learned Senior Counsel appearing for the petitioner submitted that the petitioner was involved in sand offence and therefore, he was detained under Act 14 of 1982 and the detention order passed against him was quashed by this Court on 28.06.2021 and he came out from jail on 30.06.2021. On the very next day, these three cases have falsely been registered against the petitioner, as he was involved in the offences. Hence, he prayed for grant of anticipatory bail to the petitioner in these three cases.

3. The learned Additional Public Prosecutor appearing for the respondent Police submitted that the investigation is in crucial stage. Therefore, he objected for grant of anticipatory bail at this stage. However, he fairly submitted that apart from the confession statement of the co-accused, as of now, there is no other material available against the petitioner.

4. Considering the fact that except the confession statement of the co-accused, there is no other material available against the petitioner, this Court, by order dated 29.04.2022, granted interim anticipatory bail to the petitioner till 10.06.2022 enabling him to appear before the respondent on every Monday, Wednesday and Friday till 10.06.2022.

5. Today, the learned Additional Public Prosecutor submits that the investigation is being conducted by the Deputy Superintendent of Police, Papanasam. The petitioner has sincerely appeared before the Investigating Officer for enquiry and also co-operated for investigation. Now, the investigation is almost completed. Even now, the Investigating agency could not collect any other incriminating material against the petitioner except the confession statement of the co-accused.

6. The petitioner has been implicated in these cases only based on the confession statement of the co-accused. Now, the investigation is almost completed. Except the confession statement



of the co-accused, no other material was collected by the Investigating Agency against the petitioner.

7. It is pertinent to note that a Full Bench of the Hon'ble Apex Court, in **Tofan singh Vs State of Tamilnadu**, reported in (2021) 4 SCC, held that a confessional statement under section 67 of NDPS Act is inadmissible in evidence. Further, in the recent judgment of Hon'ble Apex Court, in **state by (NCB) Bengaluru v.Pallulabid Ahmed (Appeal (crl) No.242 of 2022)**, it has been held that confessional statement recorded under section 67 of NDPS Act will remain inadmissible in the trial of an offence under NDPS Act.

8. Considering the fact that based on the confession statement of the co-accused, the petitioner is implicated in these cases and as per the decision of the Hon'ble Apex Court, a confessional statement under section 67 of NDPS Act is inadmissible in evidence, this Court is inclined to grant anticipatory bail to the petitioner in these cases.

9. Accordingly, these Criminal Original Petitions are allowed. In these three cases, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the Additional District Court, (Special Judge under EC Act cases), Thanjavur, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions that:

[a]the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity;

[b]the petitioner shall report before the Deputy Superintendent of Police, Papanasam, on every Monday at 4.00 p.m. for a period of two months and thereafter, as and when required for interrogation;

[c]the petitioner shall not tamper with the evidence or witness either during investigation or trial;

[d]the petitioner shall not abscond either during investigation or trial;

[e]On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]** and



[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
17/06/2022

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23/06/2022

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

TO

- 1 THE ADDITIONAL DISTRICT JUDGE,
SPECIAL JUDGE UNDER EC ACT CASES THANJAVUR.
- 2 THE INSPECTOR OF POLICE
KUMBAKONAM WEST POLICE STATION,
THANJAVUR DISTRICT.
- 3 THE INSPECTOR OF POLICE,
AMMAPET POLICE STATION, THANJAVUR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO

THE DEPUTY SUPERINTENDENT OF POLICE,
PAPANASAM.

+3 CC to M/s.K.PRABHU, Advocate (SR-5728,5729 & 5730[I] dated
17/06/2022)

ORDER

IN

CRL OP (MD) . Nos.19303

to 19305 of 2021

Date :17/06/2022

PKP/JM/SAR -4/23.06.2022/4P/9C