



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 01/11/2022

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PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL OP(MD). No.18322 of 2022

John Justin Alias Chantni

... Petitioner/Accused No.3

Vs

State Rep.by

The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari.

Cr.No.353/2021.

... Respondent/Complainant

For Petitioner : Mr.T.Joshua, Advocate

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. 353/2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/Accused, who was arrested, on 22/01/2022 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.353 of 2021, seek bail.

2.The case of the prosecution is that on 04/07/2021 at about 7.00am, the de-facto complainant received a secret information from the police informer. On that account, along with the police team and the police informer, they were in surveillance near Narikulam Colony, Mahathanapuram roundana. At that time, three persons were found with package bag. They were identified by the informer. On enquiry, they disclosed their name as Sri Krishnan, Samy and John Justin alias Chatni. Among three persons, one John Justin alias Chatni escaped from that place and other two persons were apprehended. On search, they were found in possession of 21 kgs of ganja worth about Rs.2,00,000/-. Further proceedings were



undertaken as per the procedure and the accused persons were arrested on the spot itself and remanded to judicial custody and investigation was undertaken. After completing the investigation, final report was filed before the concerned Court and it has taken cognizance in CC No.136 of 2022.

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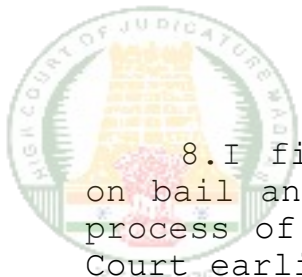
3.This petitioner is arrayed as A3, in the said case. He filed earlier an application for bail in Crl.O.P(MD)No.10530 of 2022, which was heard along with Crl.OP(MD)No.5309 of 2022. Both the petitions were dismissed by order of this Court, dated 05.08.2022. At the time of dismissing the bail applications, a direction was issued to the trial Court to complete the trial process, within a period of five months, from the date of receipt of a copy of the order. After the above said order of dismissal, again the petitioner filed this petition stating the very same facts and circumstances.

4.The learned Additional Public Prosecutor would submit that after elaborate consideration only, the above said applications were dismissed by this Court. There is no reason to entertain this petition, when there was a specific direction to the trial Court to complete the trial, within a period of five months. Repeated bail application has been filed on the very same cause of action and ground. Whether there is any violation of statutory provision, has to be considered by the trial Court during the course of trial.

5.It was contented on behalf of the petitioner that only based upon the confession statement of first accused, this petitioner was arrayed as an accused and violation of mandatory provision are enough for granting bail.

6.It is a commercial quantity. As mentioned in the earlier order, except stating that it is a foisted case, no other ground for considering the petition was raised by the learned counsel for the petitioner. Even though, this petitioner was acquitted earlier in a similar case, it was observed that there was no guarantee that the petitioner would not commit any similar offence in future. It was also submitted by the learned Additional Public Prosecutor that the petitioner was involved in seven previous cases, in which, one case is of similar nature. But in that case, he was acquitted. It was also observed that in the place of occurrence itself, the involvement of the petitioner was informed and his identity was informed by the co-accused. Considering all those aspects only, the above said petitions were dismissed.

7.Even the learned counsel for the petitioner would rely upon the Judgment of **Hon'ble Supreme Court in Arif Khan @ Agha Khan Vs The State of Uttarkhand**, for the purpose of argument in respect of violation of Section 50 of NDPS Act. I am of the considered view that the above said matter can only be decided at the time of trial.



8.I find no change of circumstances to enlarge the petitioner on bail and directed to co-operate with the Court and complete the process of trial, within the stipulated time, as prescribed by this Court earlier.

9. Accordingly, this Criminal Original Petition stands dismissed.

sd/-
01/11/2022

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/11/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE ADDITIONAL DISTRICT JUDGE/
PRESIDING OFFICER,
PRINCIPAL SPECIAL COURT
FOR EC & NDPS ACT CASES, MADURAI.
- 2 THE INSPECTOR OF POLICE
KANYAKUMARI POLICE STATION, KANYAKUMARI.
- 3 THE SUPERINTENDENT
CENTRAL PRISON, PALAYAMKOTTAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.18322 of 2022
Date :01/11/2022

pnm
PKP/SSS/SAR-3/04.11.2022/3P/5C