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CRL OP(MD). N



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

Date : 20/10/2022

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL OP(MD). No.18599 of 2022

Karthik

... Petitioner/Accused No.2

Vs

The State rep.by,
The Inspector of Police,
Asaripallam Police Station,
Kanyakumari District.
(Crime No.98 of 2022).

... Respondent/Complainant

For Petitioners : M/s.G.Cenil, Advocate.

For Respondent : Mr.M.Vaikkam Karunanithi
Government Advocate (Crl.Side)

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

PRAYER :-For Anticipatory Bail in Crime No.98 of 2022 on the file of the Respondent police.

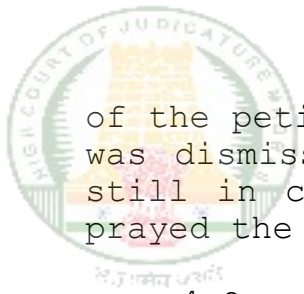
ORDER : The Court made the following order :-

The petitioner/Accused No.2, who apprehending arrest at the hands of the respondent police for the alleged offence punishable under Section 8(c), 20(b)(ii)(A) and 25 of Narcotic Drugs and Psychotropic substance Act, 1985 and Section 77 of the Junenil justice(Care and Protection of Children) Act, 2015, in Crime No.98 of 2022, on the file of the respondent police, seeks anticipatory bail.

2. The allegation against the petitioner is that A1 purchased Ganja from the petitioner for sale. A case in Crime No.98 of 2022, was registered against the petitioner.

3.On the side of the petitioner, it is stated that the petitioner was falsely implicated in this case. A1 was not even known to the petitioner. The lorry belonged to the father of the petitioner was stolen and a criminal complaint was registered before the police station. To wreak vengeance, A1 has implicated the name

<https://www.hc.madras.gov.in/crl>



of the petitioner in the confession statement. The earlier petition was dismissed by this Court on the ground that the co-accused was still in custody and the accused was already released on bail and prayed the petitioner to be released on anticipatory bail.

4. On the side of the prosecution, it is stated that the petitioner is the second accused. A1 purchased Ganja from the petitioner. A1 was arrested on 27.08.2022, with 700 Grams of Ganja. A1 was released on bail. The petitioner is having one previous case and prayed the petition to be dismissed.

5. Considering the fact that co-accused was already released on bail, considering the fact that though the earlier petition was dismissed on 16.09.2022, the prosecution has not taken any steps to arrest the petitioner so far, this Court is inclined to release the petitioner on anticipatory bail on the following grounds:

6. Accordingly, this petition is allowed on condition that the petitioner shall pay a sum of Rs.15,000/- (Rupees Fifteen Thousand only), to the credit of Crime No.98 of 2022 before the learned Judicial Magistrate No.I, Kulithurai, without prejudice to their rights and contentions before the trial Court and produce the receipt before the trial Court.

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.I, Kulithurai, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties, each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or 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 Aadhar card or Bank pass Book to ensure their identity;

(b) the petitioner shall report before the respondent police daily at 10.30 am for a period of one month and thereafter, as and when required for interrogation.

(c) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioner shall be present before the Court on hearing dates and before the respondent police as and when required;

(e) on breach of any of the aforesaid conditions, the learned Magistrate or the 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/-

20/10/2022

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

TO

1 THE JUDICIAL MAGISTRATE NO.I,
KULITHURAI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
KANYAKUMARI DISTRICT AT NAGERCOIL.

3 THE INSPECTOR OF POLICE
ASARIPALLAM POLICE STATION, KANNIYAKUMARI DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.G.CENIL, Advocate (SR-11957[I] dated 27/10/2022)

ORDER

IN

CRL OP(MD) No.18599 of 2022

Date :20/10/2022

pnn

MK/GB/SAR. /28.10.2022/3P/6C