



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 21/12/2022

WEB COPY

PRESENT

The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.OP(MD)No.19499 of 2022

K.Irudhaya Vas

... Petitioner/Accused No.1

Vs.

State represented by
Inspector of Police,
NIB CID,
Thoothukudi District.
(Crime No.7 of 2022)

... Respondent/Complainant

For Petitioner : Mr.M.Jagadeesh Pandian, Advocate
for Mr.Na.Mani Maran, Advocate

For Respondent : Mr.B.Nambi Selvan
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime No.7 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who is arrayed as A1 was arrested on 21/02/2022 and remanded to judicial custody for the alleged offences punishable under section 8(c) r/w 22(C), 23(C), 24, 25, 29 (I) NDPS Act, in Crime No.7 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 20/12/2021 at about 09.00 pm, the Inspector of Police belongs to Q Branch received a secret information. On the basis of the aforesaid information, along with the police team, she conducted raid in Vembar Akkarai Beach. At that time, she found a boat beyond 100 meters of the seashore bearing Registration No.IND TN 12 M 3851.

3.The police team went near the boat and at that time, all the accused persons tried to escape. They were apprehended and were found in possession of 10 kgs of Crystal Methamphetamine (ICE), 7 mobile phones, RC book of the boat, etc., apart from cash. The



aforesaid contraband and others were seized in the presence of the Village Administrative Officer. Based upon the aforesaid occurrence, the aforesaid case was registered. The petitioner was arrested on 22/02/2022 and ever-since, he is in judicial custody.

4. Heard both sides.

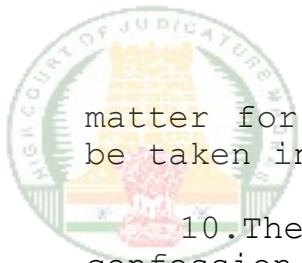
5. Now this is the second bail application filed by the petitioner and the learned counsel appearing for the petitioner would argue the very same point but from different angle.

6. The earlier argument with regard to the complaint given by the wife as well as the brother of this petitioner was also considered. I find no reason to differ from that view, simply because, advance complaint has been given stating that the petitioner was taken by the respondent police, even before the alleged time of occurrence, this court was not convinced with regard to the above said issue. So I find no reason to differ from the above said issue. The actual time of arrest can be a matter for consideration before the trial court at the time of trial proceedings.

7. Now the learned counsel appearing for the petitioner wants to rely upon the order that has been passed by the Coordinate Bench of this court in some of the matters namely Crl.OP(MD)No.15041 of 2018, dated 24/10/2018, Crl.OP(MD)No.7977 of 2021, dated 07/07/2021 and 5093 of 2021 batch, 23/12/2021 and wants to sustain his argument to the effect even though, a news paper report cannot be taken into account without any proper verification, that can be considered to be a contra version. So according to him, when two versions are possible, he is entitled for bail. The petitioner wants to project the newspaper report contra to the official version. This court also considered in the earlier order. The same points cannot be taken in a different angle, especially in the light of the observation that were made by the Coordinate Bench of this court.

8. As mentioned earlier, it is an International Trading of Ganja smuggling, such an offence requires thorough trial process. Now the final report has been filed and it was taken cognizance in CC No.710 of 2022, on 15/09/2022. so the matter has to be taken to its logical end and if the petitioner is released on bail on the ground that except the confession statement of the co-accused, no other ground is available to the prosecution to implicate him, the newspaper report is also contrary to the official version and the complaint given by the brother of the petitioner with regard to the illegal taking of the petitioner into custody by the respondent police, are all the matters, which got to be considered at the time of trial.

9. The learned counsel appearing for the petitioner would submit in the boat itself in the mid-sea, the documents have been prepared. According to him, it is highly unbelievable. But This is also a



matter for consideration at the time of trial. These things should be taken into account at this stage.

10. The case of the prosecution is not solely rest upon the confession statement of the co-accused. As observed earlier, call details have been collected and now, the co-accused number is also stated to be available in the call record. So the contention on the part of the petitioner that except the confession statement of the co-accused, no other material is available is not at all correct on record. On the face of it, the occurrence cannot be doubted at any cost. But whether the involvement of the petitioner is true or not, is a matter for consideration before the trial court.

11. Considering the fact that it is an International Ganja Trader offence and if the petitioner is released on bail, there is every likelihood of absconding and indulge in such sort of illegal trading activities again. So I find that it is not a fittest case to enlarge the petitioner on bail.

12. In fine, this criminal original petition is **dismissed**.

sd/-

21/12/2022

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/01/2023

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

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TO

- 1 THE INSPECTOR OF POLICE
NIB CID, THOOTHUKUDI DISTRICT
- 2 THE SUPERINTENDENT
CENTRAL PRISON, PALAYAMKOTTAI.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.19499 of 2022

Date : 21/12/2022

PKP/BUC/SAR-2/06.01.2023/3P/4C