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CRL OP(MD). A



22

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 30/11/2022

PRESENT

The Hon`ble Mr.Justice A.A.NAKKIRAN

CRL OP(MD). No.21161 of 2022

S.Mohamed Ismail

... Petitioner/Accused No.2

Vs

State Rep.by
The Inspector of Police,
Devakottai Town Police Station,
Sivagangai District.
Crime No.256 of 2022.

... Respondent/Complainant

For Petitioner : M/s.Sanjay S.M., Advocate.

For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime No.256 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A2, who was arrested and remanded to judicial custody on 15.11.2022 for the offences punishable under Sections 8 (c) r/w 20(b)(ii)(B) of NDPS Act, 1985, in crime No.256 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner and other accused were found in illegal possession of 1.830 kg of Ganja. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. He would further submit that the petitioner is in judicial custody from 15.11.2022. Therefore, he seeks bail to the petitioner.

4.The learned Additional Public Prosecutor would submit that totally 2 accused are involved in this case. The petitioner was arrested along with A2. The petitioner and A1 were arrested along with

<https://www.mca2013.in/judis>



contraband. The quantity of Ganja involved in this case is 1.830 kg. The petitioner is having 5 previous cases. Out of which, 1 case is similar in nature. The investigation is not yet completed. Hence, he strongly opposed to grant bail to the petitioner.

5. Considering the period of incarceration and also considering the fact that the quantity of Ganja involved in this case is 1.830 kg, which is in between quantity, this Court is inclined to grant bail to the petitioner with certain conditions.

6. Accordingly, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail, on executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Additional District and Sessions Judge/ Presiding Officer, Special Court for EC and NDPS Act Cases, Pudukottai.

(i) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

(ii) the petitioner is directed to deposit a sum of **Rs.3,000/- (Rupees Three Thousand only) to the credit of Headmistress, Government High School, Sathyamoorthy Nagar, Madurai (Account No.30641540761, IFSC Code: SBIN0016503, State Bank of India, Samayanallur, Madurai)**, without prejudice to his rights and contentions before the trial Court;

(iii) the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders;

(iv) the petitioner shall not tamper with evidence or witness;

(v) the petitioner shall not abscond during trial.

(vi) 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].

(vii) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

30/11/2022

/ TRUE COPY /

30/11/2022

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, 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.

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- TO
- 1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE /
PRESIDING OFFICER,
SPECIAL COURT FOR EC AND NDPS ACT CASES,
PUDUKOTTAI.
 - 2 THE OFFICER INCHARGE, DISTRICT PRISON, PUDUKOTTAI.
 - 3 THE INSPECTOR OF POLICE, DEVAKOTTAI TOWN POLICE STATION,
SIVAGANGAI DISTRICT.
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO

THE HEAD MISTRESS,
GOVERNMENT HIGH SCHOOL,
SATHYAMOORTHY NAGAR,
MADURAI.

+1 CC to M/s.S.M.SANJAY, Advocate (SR-13982[I] dated 30/11/2022)

ORDER
IN
CRL OP(MD) No.21161 of 2022
Date :30/11/2022

RS/VR/SAR.(30.11.2022) 3P-7C