



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 22/12/2022

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL OP(MD). No.22203 of 2022

Shaji,

... Petitioner/Accused No.3

Vs.

State Rep.by
The Inspector of Police,
Vadaserry Police Station,
Kanyakumari District.
(Crime No.118/2022).

... Respondent/Complainant

For Petitioner : M/s.Senthil.M.P, Advocate.

For Respondent : Mr.B.Nambiselvan,
Additional Public Prosecutor

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

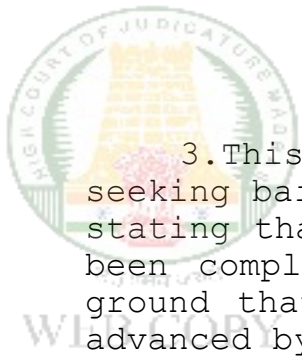
PRAYER :-

To enlarge the petitioner on Bail in Crime No.118/2022 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused No.3 herein, who was arrested on 16.04.2022 for the alleged offence under Sections 8(c), 21(c) and 22 (c) of NDPS Act, in Crime No.118 of 2022, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on a secrete information, the defacto complainant along with the police team went to the place of occurrence along with the police informer and near the place of occurrence, the police informer identified the suspected persons. The defacto complainant along with police team enquired them. They revealed their name as Bibin, Arul Thulasi, Juji and they made search and they were found in possession of 54 gms. of Methylene Dioxy Methamphetamine (MMDA) which is a contraband and as per the procedure, sampling was taken and the persons were arrested and on the basis of the above said occurrence, the case was registered and all the three accused persons were arrested and remanded to judicial



3.This is the third bail application filed by the petitioner seeking bail. The first bail application was dismissed on 19.07.2022 stating that the condition under Section 37 of the NDPS Act has not been complied. The second application was also dismissed on the ground that no change of circumstances and no new ground was also advanced by the petitioner.

4.This third application has been filed by the petitioner stating that he is in custody for more than 265 days and investigation has not been completed and final report was not filed before the concerned Court.

5.The learned Additional Public Prosecutor would submit that a request has been made by the Investigating Officer to extend the time for completing the investigation. That was also considered by the Special Court and till 16th January of 2023, the time has been extended. All the accused persons were represented before the Special Court while the prosecution moved the above said application in Cr.M.P.No.2630 of 2022.

6.The contention that was raised by the petitioner before the Special Court is that even before moving the application by the prosecution, he has filed a petition seeking statutory bail under Section 167 (2) Cr.P.C. It is seen that chemical analysis report has not been received by the prosecution till that date. But, it appears that the trial Court has not addressed the above said point directly. It has been simply stated that they have filed bail application stating that the quantity is not commercial.

7.Perusal of CD file shows that the statutory bail application that was moved by this petitioner in CrI.M.P.No.2741 of 2022 was considered by the trial Court on its own merits and it has been observed that the prosecution filed the petition seeking extension of time on 03.10.2022 long before the application that is filed by the petitioner under Section 167 (2) Cr.P.C. After considering all those things only it was dismissed on 28.10.2022.

8.After that, this petition has been filed by making out the very same averment stating that final report was not filed within the statutory time. The attitude of the petitioner filing repeated petitions suppressing the earlier orders has also been deprecated by the trial Court. Now, whatever may be, I find absolutely no change of circumstances. The change of circumstance that has been pointed out by the petitioner also did not find favour with the trial Court. Again, no contra view is possible. Moreover, it is also seen that the draft final report is also made ready and will be presented before the concerned Court after completing the official formalities.



9. Considering the contraband that is involved in the a^lld occurrence, this Court is not inclined to grant bail to the petitioner. As stated above, the Section 37 of the NDPS Act has not been complied.

10. Accordingly, this criminal original petition is **dismissed**.

sd/-

22/12/2022

/ TRUE COPY /

/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
VADASERRY POLICE STATION,
KANYAKUMARI DISTRICT.
- 2 THE SUPERINTENDENT,
CENTRAL JAIL, TIRUNELVELI.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.22203 of 2022
Date :22/12/2022

PKP/MMS/SAR-4/04.01.2023/3P/4C