



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

Date : 31/03/2023

PRESENT

WEB COPY

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD)No.321 of 2023

T.Manivannan

... Petitioner/Accused No.2

Vs

The State represented by
The Inspector of Police,
Nibcid Madurai,
Crime No.11 of 2022.

... Respondent/Complainant

For Petitioner : M/s.Karthick R.J.,
Advocate.

For Respondent : T.Senthil Kumar,
Government Advocate (Crl.Side)

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

PRAYER :-

For Bail in Crime No.11 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 05.08.2022 for the offence punishable under Sections 8(c) r/w.20(b)(ii)(c), 29(1) and 25 of NDPS Act in Crime No.11 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner along with other accused were found in illegal possession of 160kgs of kanja, which is a commercial quantity. Hence the case.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and in this case though the alleged contraband stated to be recovered from the petitioner and the other accused is 160 kgs of kanja which is a commercial quantity, the petitioner is seeking bail on the ground of terminal medical illness. He would further submit that though there is a bar/restriction laid under section 37 of the NDPS Act for grant of bail in the event of non-compliance of the twin conditions therein, it only limits the powers of the Court with regard to the jurisdiction to grant bail and it does not completely curtail powers upon the High Court under Section 439 of Cr.P.C. He would reiterate that Section 37 of the NDPS Act would come into play only when the bail petition of a person involved in possession of commercial quantity of contraband is considered on merits, but, such limitation would not stand in the way of granting bail on humanitarian ground like



medical grounds and in such circumstances the powers of High Court under Section 439 of Cr.P.C are not curtailed. He would further submit that the earlier application filed in CrI.O.P(MD) No.16603 of 2022 was dismissed as withdrawn on 08.11.2022 and the petitioner is in judicial custody from 05.08.2022. He would further submit that the petitioner is now taking treatment as an inpatient in Government Rajaji Hospital, Madurai for Idiopathic Thrombo Cytopenia/ Diabetes Mellitus/ Ischemic Dilatal Cardio Myopathy and he is continuing his days. He would further submit that while the petitioner was in prison he was found to be terminally ill and suffering from Idiopathic Thrombo Cytopenia with severe left ventricular ejection fraction of only 25%. He further submitted that the petitioner was treated in ICCU with antifailure drugs and drugs for IPT, and the patient was submitted for Coronary Angiogram on 03.09.2022 and was found to have spontaneous coronary artery dissection in left anterior descending and Right Coronary Arteries. He would further submit that initially the petitioner was admitted at Government Rajaji Hospital, Madurai on 05.08.2022 and he was shifted to Stanley Medical College, Chennai for better treatment and since his condition did not improve he was brought back and readmitted in Government Rajaji Hospital, Madurai on 03.12.2022. As per the medical expert the condition of the petitioner cannot be reversed and he is terminally ill and counting his days. In such circumstances the wife and family members wants the petitioner as husband /father to be with them for some time, thereby this bail application is sought for on medical/humanitarian ground. He would further submit that in this case investigation has been completed and final report has been filed and as when summons are issued by the Court the petitioner is ready to appear before the Court and he is also ready to cooperate for the speedy disposal of the case. He would further submit that the wife of the petitioner has also filed an affidavit before this Court stating that she is discharging her husband from the hospital against medical advice on her own risk. He would further submit that in future if her husband is admitted in the hospital it would be intimated to the respondent police immediately.

4.The respondent has filed a detailed counter. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner along with other accused were arrested along with the contraband of 160kgs of kanja which is a commercial quantity. He would further submit that call details are also available to show that the petitioner was actively involved in the offence and that he was found to be in the conscious of possession of 160kgs of kanja. He would further submit that the condition of the petitioner is not stable.

5.The report of the Dean, Government Rajaji Hospital is extracted herein under :



05.08.2022 to 16.10.2022. He was having Idiopathic Thrombocytopenia / Diabetes Mellitus / Ischemic Dilatal Cardio Myopathy on admission. He was a known cardiac patient and was in treatment. On admission he was having severe left ventricular dysfunction by Echo (Left ventricular ejection fraction - 25%). He was treated in ICCU with anti-failure drugs & drugs for ITP. Patient was submitted for Coronary Angiogram on 03.09.2022 and was found to have spontaneous coronary artery dissection in Left Anterior Descending and Right Coronary Arteries. Patient was discharged on 16/10/2022 from Government Rajaji Hospital, Madurai and he was readmitted in Stanley Medical College for further management. As his platelet count was low, he could not undergo any surgical intervention. He was discharged from Stanley Medical College on 26/11/2022. He was readmitted in Government Rajaji Hospital, Madurai on 03/12/2022 with severe breathlessness. At present he is having breathlessness at rest and recurrent chest pain. His LVEF is around 25% now. He is on the following drugs T.Azathioprine, T.Prednisolone, T.Isosorbide dinitrate, T. Frusemide, T.Spironolactone, Insulin Injection, Oxygen, Metoprolol. At present he is in ward 217B under cardiology department".

6.Considering the above facts and circumstances of the case, This Court granted interim bail to the petitioner on 01.02.2023 for a period of four weeks. Subsequently, it was extended and also directed the Medical Board to send a report. Accordingly, the Medical Board enquired the petitioner and filed medical report and opined in the report dated 28.03.2023 as follows:-

"After detailed clinical examination, ECG and Electrocardiographic evaluation of Mr.Manivannan, 41/M, I conclude that he is suffering with Idiopathic thrombocytopenic pupura / Coronary artery disease / ischemic dilated cardiomyopathy / same to dysfunction / mild PHT / congestive cardiac failure. He needs bed rest and to continue medical management".

7.Therefore, the petitioner is suffering from chronic disease and he needs bed rest and to continue medication. That apart, even before the registration of crime, the petitioner has medical records and he is continuously taking treatment for same disease.

8.Only on this ground, this Court is inclined to grant bail to the petitioner. Therefore, the interim bail already granted to the petitioner on 01.02.2023 is made absolute.

sd/-

31/03/2023

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31/03/2023

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



TO

1 THE INSPECTOR OF POLICE, NIBCID, MADURAI.

2 THE DEAN, GOVERNMENT RAJAJI HOSPITAL, MADURAI.

3 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

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

ORDER

IN

CRL OP (MD) No.321 of 2023

Date :31/03/2023

SS/MMS/SAR /31/03/2023/5P/5C