



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

Thursday, the Ninth day of February Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.788 of 2023

Vignesh

... Petitioner/Accused No.10

Vs

The State through,
The Inspector of Police,
Thiruppuvanam Police Station,
Sivagangai District.
(Crime No.432/2020).

... Respondent/Complainant

For Petitioner : M/s.Karthikeya C

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

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

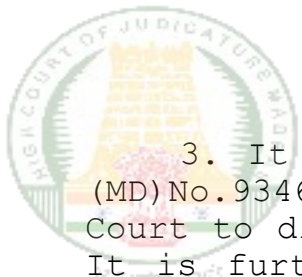
PRAYER :-

For Bail in Crime No.432/2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A10, who was arrested and remanded to judicial custody on 08.07.2020 for the offences punishable under Sections 147, 148, 506(ii), 120(B), 399 and 402 of IPC, Sections 8(c), 20(b) (ii)(c) and 25 of NDPS Act, 1985 and Sections 20 and 30 of Arms Act, 1959 in Crime No.432 of 2020, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that based on the secret information given by the informant, on 08.07.2020, the respondent police conducted a raid at Mangudi Ayyanar Temple Seemai Karuvai Weald and found that the petitioner and other accused were in possession of 22kgs of Ganja along with deadly weapons. On seeing the police, some of the accused had escaped from the scene of occurrence and the police only nabbed the petitioner along with six other accused. Hence, the complaint.



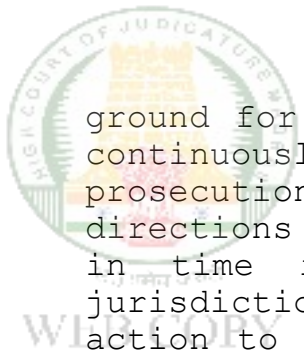
3. It is evident from the records that this Court in Crl.O.P. (MD)No.9346 of 2021, vide order dated 14.07.2021, directed the trial Court to dispose of the case in C.C.No.1 of 2021 within six months. It is further evident that subsequently in Crl.O.P.(MD)No.4331 of 2022, vide order dated 07.03.2022, three months further time was granted for disposal of the said case and that in Crl.O.P.(MD) No.9346 of 2021, vide order dated 26.04.2022, six months further time was granted to dispose of the case.

4. When the matter was taken up on 23.01.2023, considering the submission made by the learned Counsel for the petitioner, that despite the above directions, only two witnesses have been examined, this Court directed the Registry to call for a report from the concerned Court in this regard. In pursuance of the same, the learned Additional District Judge / Presiding Officer, Special Court for EC & NDPS Act cases, Pudukkottai, has submitted a report dated 27.01.2023 and has given a lengthy explanation by giving "B" diary particulars from 19.10.2022 till 27.01.2023.

5. The learned Additional Judge, in his report, has canvassed the reasons for the delay that the case was ordered to be split up and subsequently clubbed against some of the accused persons, that there was a delay on behalf of the defence to cross-examine the witnesses in time, that there was a delay on the part of the prosecution to file objections in the petitions filed under Section 311 Cr.P.C., that the delay had occasioned by the prosecution in presenting the witnesses, despite the specific orders of the Court, that the Special Court is covering the jurisdiction of NDPS Act cases registered in eight Districts, apart from the other Sessions cases, Criminal Appeals and M.C.O.P., cases, that totally 15 High Court direction cases are pending on the file of the said Court and that some delay was caused as Advocates appearing for the NDPS Act cases are coming from Chennai, Madurai, Karur, Ramanathapuram and Trichy.

6. When the matter is taken up today, the concerned Inspector of Police is present. The defence as well as the prosecution are making allegations against each other for the delay caused in disposing of the above case. As already pointed out, this Court has already granted 15 months time to complete the trial and dispose of the case, but, despite the above specific directions, they have examined only four witnesses.

7. The learned Additional District Judge, by putting the blame on the prosecution for non-production of witnesses and on the defence for non- cross-examining the witnesses in time, cannot escape from his responsibility and he, being the Presiding Officer of that Court, is duty bound to conduct the proceedings in such a way, so as to comply with the directions of this Court. Pendency of



ground for extending the time for the disposal of the case and continuously. Even assuming that the reason assigned that the prosecution has failed to produce the witnesses, despite the directions and the defence has failed to cross-examine the witnesses in time is true, the Judicial Officer has every power and jurisdiction to impose necessary conditions and to take coercive action to make them to comply with his directions. After getting extension of time thrice, the Judicial Officer is not expected to give one reason or the other for seeking further extension of time.

8. The learned Additional Public Prosecutor appearing for the State, on instructions, would submit that the prosecution will take all necessary steps for production of the witnesses as directed by the trial Court and they will not take any adjournment or time for production of the witnesses.

9. The learned Counsel for the petitioner would also submit that they are ready to cross-examine the witnesses as and when required and they will not protract the proceedings.

10. Recording the submissions made by the learned Counsel on either side, the trial Court is directed to complete the trial and dispose of the case within a period of three months from the date of receipt of a copy of this order. It is made clear that no further time will be granted.

11. Since the aspects and the contentions now raised by the learned Counsel for the petitioner are earlier considered by this Court and also the fact that the petitioner's earlier application was dismissed by this Court mainly on the ground that the petitioner has failed to satisfy the first condition contemplated under Section 37 of NDPS Act, this Court is not inclined to grant bail to the petitioner.

12. In the result, the Criminal Original Petition is disposed of with the above directions.

sd/-
09/02/2023

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/02/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SSL

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TO

1. THE ADDITIONAL DISTRICT COURT/
SPECIAL COURT FOR EC AND NDPS ACT CASES,
PUDUKKOTTAI.
2. THE INSPECTOR OF POLICE,
THIRUPPUVANAM POLICE STATION,
SIVAGANGAI DISTRICT.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO
THE REGISTRAR (JUDICIAL),
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.788 of 2023
Date :09/02/2023

NA/SBN/SAR-I/21.02.2023/4P/5C