



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

Date : 14/03/2023

PRESENT

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

CRL OP(MD)Nos.1687, 2668 & 3790 of 2023

1.Crl.O.P(MD)No.1687 of 2023:-

Markandan ... Petitioner / Accused No.5

Vs

State thro
The Inspector of Police,
NIB-CID,Trichy.
(Crime No.20 of 2021.) ... Respondent / Complainant

For Petitioner : M/s.Devaki.A, Advocate.

For Respondent : Mr.T.Senthil Kumar,
Additional Public Prosecutor

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

PRAYER :-

To enlarge the petitioner/accused on bail in C.C.No.28 of 2022 pending trial on the file of learned Additional District and Sessions Judge presiding officer, Special Court for EC Act Cases, Pudukottai.

2.CRL OP(MD). No.2668 of 2023:-

S.Muruganantham ... Petitioner / Accused No.4

Vs

State represented by
The Inspector of Police,
NIB-CID, Trichy Police Station,
Trichy City.
(Crime No.20 of 2021.) ... Respondent / Complainant



For Petitioner : Mr.M.Ramu
for M/s.Manimaran.Na., Advocate.

For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor

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

PRAYER :-

C-32B.For Bail in Crime No.20 of 2021 on the file of the
respondent police.

3.CRL OP(MD). No.3790 of 2023:-

Murugan ... Petitioner / Accused No.3

Vs

The State rep by
The Inspector of Police,
NIB-CID Trichy Police Station,
Trichy District.
(Crime No.20 of 2021.)

... Respondent / Complainant

For Petitioner : M/s.P.Vimala Advocate.

For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor

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

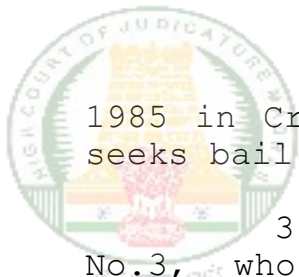
PRAYER :-

C-32B. For Bail in Crime No. 20 of 2021 on the file of the
respondent police.

COMMON ORDER : The Court made the following common order :-

In Crl.O.P(MD)No.1687 of 2023, the petitioner / Accused
No.5, who was arrested and remanded to judicial custody on
07.07.2022 for the alleged offences under Sections 8(c), 20(b)(ii)
(C) and 25 of the Narcotic Drugs and Psychotropic Substance Act,
1985 in C.C.No.28 of 2022, on the file of the learned Additional
District and Sessions Judge / Presiding Officer, Special Court for
EC Act Cases, Pudukkottai, seeks bail.

2.In Crl.O.P(MD)No.2668 of 2023, the petitioner / Accused
No.4, who was arrested and remanded to judicial custody on
09.06.2022 for the alleged offences under Sections 8(c), 20(b)(ii)
(C) and 25 of the Narcotic Drugs and Psychotropic Substance Act,



1985 in Crime No.20 of 2021 on the file of the respondent, seeks bail.

3.In Crl.O.P(MD)No.3790 of 2023, the petitioner / Accused No.3, who was arrested and remanded to judicial custody on 04.10.2021 for the alleged offences under Sections 8(c), 20(b)(ii) (C) and 25 of the Narcotic Drugs and Psychotropic Substance Act, 1985 in Crime No.20 of 2021 on the file of the respondent Police, seeks bail.

4.The case of the prosecution is that on 21.09.2021 at about 16.00 hours, the Inspector of Police received secret information from the informant. Pursuant to the information, the respondent along with police parties went to Samayapuram and conducted a vehicle check-up on the information given by the informant, the vehicles were standing at Samayapuram weekly market near the public toilet, the police party went to the spot and tried to check up the said vehicles, the lorry drivers Moovendran and Prabhu tried to escape from the said spot, but the respondent surrounded and apprehended them, and they have been in illegal possession of 132 kgs of Ganja. The same was seized by the respondent and Accused Nos.1 and 2 were arrested. After the confession, the petitioners were arrested and remanded to judicial custody. Hence, the complaint.

5.The learned counsel appearing for the petitioner in Crl.O.P(MD)No.3790 of 2023 would submit that the petitioner is arraigned as Accused No.3. On the strength of the confession statement made by the first accused, he has been implicated as an accused, and he has no previous antecedents so far. The petitioner was arrested in front of a Hotel while he was taking food along with his son. He is no way connected with A.1 and A.2. She also submitted that the call details produced by the learned Additional Public Prosecutor is no way connected with the petitioner. At the time of arrest, one mobile phone was seized from the petitioner in respect of Mobile No.90879 35752, whereas the call details produced by the petitioner pertaining to Mobile No.9486984894. The said mobile number did not belong to the petitioner herein. Except the call details, no other material was produced by the respondent to connect the petitioner along with A.1 and A.2. The petitioner was arrested and remanded to judicial custody on 04.10.2021. She further submitted that though charge-sheet has been filed and the same has been taken cognizance in C.C.No.28 of 2022 on the file of the learned Additional District and Sessions Judge / Presiding Officer, Special Court for EC Act Cases, Pudukkottai, the respondent not even examined any witnesses so far.

6.The learned counsel appearing for the petitioners/A4 and A5 in Crl.O.P(MD)Nos.2668 & 1687 of 2023 also would submit that except the phone call details, no other material produced by the respondent in order to connect the petitioners, namely A.4 and A.5,

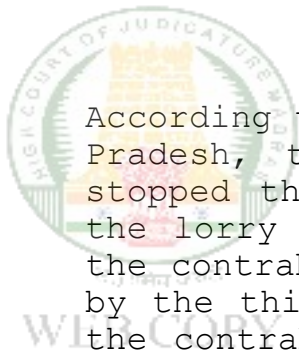


along with A.1 and A.2. They also pointed out that as per the confession statement of the first accused, F.I.R has been registered. According to the confession statement of A.1, the first accused along with A.2 proceeded to Andhra Pradesh and he received a phone call from the third accused and handed over the lorry in order to purchase the contra band. After purchasing the Ganja from Andhra Pradesh, the third accused handed over the lorry to the first accused to supply the contra band at Thanjavur, whereas the confession statement of the third accused revealed that the first accused had purchased the contra band through the brother of the sixth accused. Thereafter, he directed to distribute the contra band to the persons, instructed by A.1. Therefore, there is absolutely no material to connect the petitioners, namely A.3 to A.5 along with A.1 & A.2.

7.Per contra, the learned Additional Public Prosecutor appearing for the respondent would submit that the accused persons, namely A.3 to A.5, have conspired together and engaged A.1 and A.2 to purchase the contra band weighing 132 Kgs of Ganja from Andhra Pradesh. Prior to the date of arrest, at about 01.45 pm., the first accused called the third accused through his mobile phone at Samayapuram, Trichy. Likewise, the third accused called A.4 and A.5 prior to the date of occurrence, namely on 19.09.2021 while they were in Andhra Pradesh. Therefore, there are materials to connect the accused persons along with A.1 and A.2. The seized material is a commercial quantity and therefore, he vehemently opposed for granting of bail to the petitioners.

8.Heard the learned counsels appearing on either side and perused the materials available on record.

9.There are totally six accused, in which, the petitioners are arraigned as A.3 to A.5. According to the case of the prosecution, A.1 and A.2 went to Andhra Pradesh and purchased the contraband weighing 132 kgs of Ganja and on secret information, they apprehended Accused Nos.1 and 2 and seized 132 kgs of Ganja. On the strength of the confession statement of the first accused, the third accused has been implicated as an accused. As rightly pointed out by the learned counsel, except the confession statement and the phone call details, no other material to show that only on the instruction of A.3, A.1 and A.2 went to Andhra Pradesh to purchase the contraband. That apart, the mobile number used by A.3, namely Mobile No.94869 84894 was not seized from A.3, whereas the seized mobile number is 90879 35752. That apart, the prosecution also failed to produce any document to show that the said phone number belonged to the third accused. Likewise, the other petitioners, namely, A.4 and A.5, were also implicated as accused from the call details from the third accused to their phone numbers. For them also, the prosecution failed to produce any material to show that those phone numbers belonged to A.4 and A.5. That apart, there is a contradiction between the confession statement of A.1 and the third accused.



According to the first accused, when A.1 and A.2 proceeded to Tamil Nadu, they received a phone call from the third accused and stopped the vehicle and thereafter, the first accused handed over the lorry to the third accused to purchase Ganja. After purchasing the contraband, the lorry has been handed over to the first accused by the third accused who also informed the first accused to supply the contraband at Thanjavur, whereas, on perusal of the confession statement of A.3 revealed that the third accused asked the loan borrowed by A.1 and A.1 stated that through his brother, namely the sixth accused, he would send Ganja and sell the same and settle the loan amount, which was borrowed by the first accused. Therefore, there is absolutely no material to connect A.3 to A.5 along with A.1 and A.2. That apart, no recovery is made from A.3 to A.5 so far. Therefore, the petitioners made out a *prima facie* case in order to substantiate the twin conditions as contemplated under Section 37 of NDPS Act.

10. Considering the facts and circumstances of the case and also considering the period of incarceration by the petitioners and also considering the fact that the petitioners have no previous case, this court is inclined to grant bail to the petitioners, subject to the following conditions:

[a] Accordingly, the petitioners are ordered to be released on bail on condition to execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two blood related sureties each for a like sum to the satisfaction of the learned Additional District and Sessions Judge presiding officer, Special Court for EC Act Cases, Pudukottai and on further conditions that:

[b] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity.

[c] the petitioners shall report before the trial court daily, on all working days, at 10.30 A.M., and 05.30 p.m., until further orders.

[d] the petitioners shall not commit any offences of similar nature.

[e] the petitioners shall not abscond either during investigation or trial.

[f] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[g] On breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the



conditions have been imposed and the petitioners 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]**.

[h] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

14/03/2023

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15/03/2023

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

PS

To

1.The Additional District and Sessions Judge /
Presiding Officer,
Special Court for EC Act Cases,
Pudukottai.

2.The Inspector of Police,
NIB-CID, Trichy.

3.The Superintendent,
Central Prison,
Trichi

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1. CC to M/S.DEVAKI.A Advocate SR.No.4198(I) dated 14/03/2023

ORDER

IN

CRL OP(MD) No.1687 of 2023

Date :14/03/2023

ED/SBN/SAR- (15/03/2023) 6P 6C