



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

Date : 06/03/2023

PRESENT

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

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CRL OP(MD) . Nos.3192 and 3234 of 2023

M.Saravana Kumar ... Petitioner/Accused 5
in Crl.O.P.(MD)No.3192 of 2023

Nallathambi ... Petitioner/Accused 1
in Crl.O.P.(MD)No.3234 of 2023

Vs

The state rep.by
The Inspector of Police,
Cumbum North Police Station,
Theni District.
Crime No.49 of 2023. ... Respondent/Complainant
in both petitions

For Petitioner (in Crl.O.P.(MD)No.3192 of 2023)
: M/s.KARUPPASAMY PANDIAN M,
Advocate.

For Petitioner (in Crl.O.P.(MD)No.3234 of 2023)
: Mr.D.JEBARAJ
Advocate.

For Respondent (in both petitions)
: Mr.R.M.ANBUNITHI,
Additional Public Prosecutor

PETITIONS FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

COMMON PRAYER :- For Anticipatory Bail in Crime No.49 of 2023t on
the file of the Respondent Police.

COMMON ORDER : The Court made the following order :-

The petitioners/A1 & A5, who apprehend arrest at the hands of
the respondent police for the offences punishable under Sections
8(c) and 20(b)(ii)(A) of NDPS Act in Crime No.49 of 2023 on the file
of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that A1 who was working as
Police Constable and he was the in-charge of dealing with the NDPS
cases. During such time, he had illegally given 250gms of Ganja to
A2, namely, Ganesan. Further, A2 sold the same to one Nallathambi/A3
and the said Nallathambi sold the same to A4 (Manikandan).
Thereafter, the said Manikandan sold the said Ganja to the
petitioner/A5. Hence, the case.



3. Heard the learned counsel on either side.

4. Even according to the case of the prosecution, 250gms of contraband was handed over to the first accused in order to deposit the same before the concerned Court. Further, the said contraband was sold out to A2 to A5 by A1 and on such, 250 gms of Ganja was found in the house of the first accused. It is seen from the FIR that there were enmity between the respondent police and the first accused. It is also seen that the present case has been foisted as against the first accused. That apart, the petitioner/A5, in Crl.O.P.(MD)No.3192 of 2023, is an agricultural coolie and he has nothing to do with the other accused person and he never purchased or not in possession of any contraband.

5. Taking into consideration of the facts and circumstances of the case, this court is inclined to grant anticipatory bail to the petitioners with certain conditions:

6. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate, Uthamapalayam, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners and 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.

[b] the first petitioner/A5 shall report before the respondent Police, daily at 10.30 a.m., for a period of two weeks and thereafter, as and when required for interrogation; and the second petitioner/A1 shall report before the Additional Superintendent of Police, Theni for investigation daily at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation;

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

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

[e] On breach of any of the aforesaid conditions, the learned 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].



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

sd/-
06/03/2023

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

SJI

TO

- 1 THE JUDICIAL MAGISTRATE,
UTHAMAPALAYM, THENI DISTRICT.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.
- 3 THE INSPECTOR OF POLICE,
CUMBUM NORTH POLICE STATION,
THENI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:

THE ADDITIONAL SUPERINTENDENT OF POLICE,
THENI.

+1. CC to M/S.KARUPPASAMY PANDIAN M Advocate SR.No.3433

+1 cc to Mr.D.JEBARAJ, Advocate, SR.No.3448 (I)

ORDER

IN

CRL OP (MD) . Nos.3192 and
3234 of 2023

Date :06/03/2023

SA/SAR.2/14.03.2023/3P/8C