



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 16/03/2023

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PRESENT

The Hon`ble Mr.Justice G.ILANGOVAN

CRL OP(MD) . No.3589 of 2023

Nagappan,

... Petitioner/Accused No.2

Vs

State Rep.by
The Inspector of Police,
Thiruppuvanam Police Station,
Sivagangai District.
Cr.No. 432 of 2020..

... Respondent/Complainant

For Petitioner : MR.S.Kandhasamy pandian, Advocate
for MR.Vijayarja, Advocate.

For Respondent : Mr.T.Senthilkumar,
Additional Public Prosecutor

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

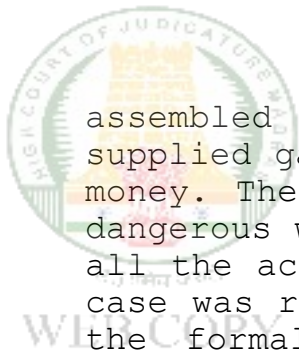
PRAYER :-

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

ORDER : The Court made the following order :-

The petitioners, who are arrayed as A2 and A6 were arrested, on 08/07/2020 and remanded to judicial custody for the alleged offences punishable under sections 147, 148, 506(ii), 120(B), 399, 402 IPC r/w section 8(c), 20(b)(ii)(c), 25 of NDPS Act, 1985 and sections 20 and 30 of Arms Act, in Crime No.432 of 2020, seek bail.

2.The case of the prosecution is that A1 is the wife of load Murugan, who is a notorious history sheeted. There was previous enmity between one Senthil Pandi and load Murugan. The above said load Murugan killed one associates of Senthil Pandi. He was arrested and remanded to judicial custody. At that time, A1 used to visit prison and she was introduced to A3. A4 to A15 are the associates of A3. A plan was made by A1 with the above said co-accused to kill any of the associates of the above said Senthil Pandi. In pursuance of the above said plan, on 06/07/2020, all the accused persons gathered in a room in the area and on 07/07/2020 in the evening hours, A3 to A15



assembled in the place of occurrence, where A1 and A2 viz A2 supplied ganja and also asked the co-accused to sell it and get the money. They were also informed the possession of aruval, ganja and dangerous weapons. At that time, the police team went and surrounded all the accused persons. Based upon the above said occurrence, the case was registered and final report was filed and after completing the formalities of investigation, now the trial is about to commence.

3.The earlier petition filed by the petitioner in Crl.O.P.(MD). No.6494 of 2022 was heard along with Crl.O.P.(MD).No.8851 of 2022, which was filed by the 6th accused and elaborate arguments were advanced on both sides. After considering all the facts, the above said petition was dismissed on 26.07.2022 and direction was issued to the trial Court to complete the trial process within a period of five months. Later this petition has been filed on a new ground.

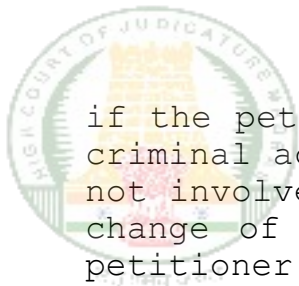
4.The learned counsel for the petitioner would submit that as per the case of the prosecution a criminal conspiracy hatched to take away the rival group when the first accused's wife alleged to have met him in prison. But when information was sought through RTI, it came to the light that no such visit was made by the wife of the first accused to the prison on the particular date. So according to the learned counsel for the petitioner, this document will lie from the prosecution case itself. According to him, when the primary allegation of criminal conspiracy is not true that the entire prosecution has to fail and this can be taken as the rebuttal of prosecution.

5.The next ground is that even though specific direction was given by this Court to complete the trial process within a period of five months, no progress has been made.

6.For that allegation, counter allegation has been made by the petitioner against the prosecution stating that only the other party has dragging on the proceedings. But it is seen that PW1 and PW2 were examined fully and when PW3 was examined in chief and some document sought to be marked by the prosecution, objection was raised by the defence. Hence, the matter was adjourned. No doubt that for the prolongation of the trial process both of them cannot be found fault, so, also the trial Court.

7.Because of the above said delay, the petitioner cannot take advantage. Regarding the first issue of criminal conspiracy it can be related only to the other IPC offences and so far as the allegation of possession of the contraband, it is seen that this petitioner was also found along with the contraband and received. So whether it is true or not cannot be matter for consideration by this Court in this petition. Since the trial has already commenced, it is for the trial Court to decide the same on its own merits.

https://www.hcj.org.in/judis However, considering the antecedents of the petitioner, I find that



if the petitioner is released on bail, he may abscond or in criminal activities. There is no guarantee that the petitioner will not involve in any offence while on bail. So I find that there is no change of circumstances and change of circumstances relied by the petitioner are not sufficient to grant bail to him.

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

sd/-

16/03/2023

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

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TO

- 1 THE ADDITIONAL DISTRICT AND
SESSIONS JUDGE, SPECIAL COURT FOR EC & NDPS CASES,
PUDUKOTTAI.
- 2 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.
- 3 THE INSPECTOR OF POLICE
THIRUPPUVANAM POLICE STATION, SIVAGANGAI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.3589 of 2023

Date :16/03/2023

PKP/VR/SAR-2/17.05.2023/ **3P/5C**