



WEB COPY

1.Crl.O.P(MD)N



3:-

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 15/03/2023

PRESENT

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

Crl.O.P(MD)Nos.3948, 3201, 4819, 1504 & 2808 of 2023

1.Crl.O.P(MD)No.3948 of 2023:-

Ganesan ... Petitioner/Accused No.1

Vs

The State rep.by,
Inspector of Police,
Natham Police Station,
Dindigul District.
(Crime No.71/2022).

... Respondent/Complainant

For Petitioner : M/s.Manimaran NA, Advocate.

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

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

PRAYER :-

For Bail in Crime No.71/2022 on the file of the Respondent Police.

2.CRL OP(MD). No.3201 of 2023:-

Gunasekaran ... Petitioner/Accused No.2

Vs

The State rep.by,
Inspector of Police,
Natham Police Station,
Dindigul District.
(Crime No.71 of 2022).

... Respondent/Complainant

For Petitioner : M/s.Alagumani.R.,
Advocate.

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



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

PRAYER :-

To release the petitioner on bail in Crime No.71 of 2022 on the file of the respondent police.

3.CRL OP(MD) . No.4819 of 2023:-

Alagu ... Petitioner/Accused No.3
Vs

The State rep.by,
Inspector of Police,
Natham Police Station,
Dindigul District.
Cr.No.71/2022.

... Respondent/Complainant

For Petitioner : M/s.Manimaran NA,
Advocate.

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

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

PRAYER :-

For Bail in Cr No.71/2022 on the file of the respondent police.

4.CRL OP(MD) . No.2808 of 2023:-

Amsupandi ... Petitioner/Accused No.6
Vs

The State rep.by,
Inspector of Police,
Natham Police Station,
Dindigul District.
Crime No.71 of 2022..

... Respondent/Complainant

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

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



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

PRAYER :-

To release the petitioner/accused on bail in C.C.No.601 of 2022 on the file of the Additional District Judge/Presiding Officer, Principal Special Court for EC and NDPS Act Cases, Madurai pending trial.

5.CRL OP(MD) . No.1504 of 2023:-

Saravanan ... Petitioner/Accused No.7

Vs

The State rep.by,
The Inspector of Police,
Natham Police Station,
Dindigul District.
Crime No. 71 of 2022.

... Respondent/Complainant

For Petitioner : M/s.Rajaselvan.R,
Advocate.

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

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

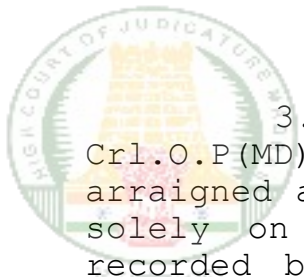
PRAYER :-

For Bail in Cr No.71/2022 on the file of the respondent police.

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

The petitioners / Accused Nos.1, 2, 3, 6 and 7, who were arrested and remanded to judicial custody on 20.02.2022, 20.02.2022, 20.02.2022, 01.04.2022 and 13.12.2022 for the alleged offences under Sections 8(c) r/w 20(b)(ii)(C), 25 and 29(i) of Narcotic Drugs and Psychotropic Substances Act, 1985, in Crime No.71 of 2022 on the file of the respondent Police, seek bail.

2. The case of the prosecution is that on 19.02.2022 at about 21.00 hours, on secret information, the respondent police conducted a vehicle checkup at Sendhurai Junction. While so, the accused persons coming in the Car bearing Registration No.TN-57-BF-3861 and on seeing the respondent Police, the accused persons attempted to escape, but the respondent Police napped the accused persons and found that they were in joint possession of 140 kgs of Ganja and the said contraband was seized. The respondent Police registered the F.I.R in Crime No.71 of 2022. Hence, the case.

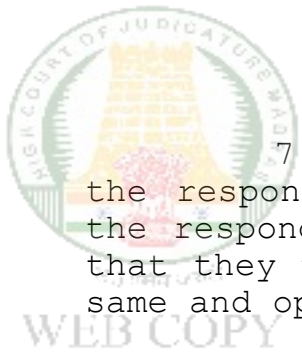


3.The learned counsel appearing for the petitioner in Crl.O.P(MD)No.3948 of 2023 would submit that the petitioner is arraigned as Accused No.1, and he has been implicated as an accused solely on the basis of the confession statement of co-accused recorded by the police officials. It is admissible in evidence. Admittedly, no contraband whatsoever is recovered from the possession of the petitioner/A.1. His presence was also not there at the scene of crime. Except the confession statement, no material was produced by the prosecution in order to connect the petitioner/A.1 with other accused persons.

4.The learned counsel appearing for the petitioner in Crl.O.P(MD)No.3201 of 2023 would submit that the petitioner is arraigned as Accused No.2. The petitioner/A.2 was arrested on 19.02.2022 at about 11.00 p.m., and registered the F.I.R on 20.02.2022 at about 07.30 a.m., but the arrest memo contains the crime number. In fact, the respondent failed to inform about the arrest of the petitioner/A.2 to his family members. Therefore, the petitioner/A.2 made out a prima facie case in order to fulfil the twin conditions as contemplated under Section 37 of the NDPS Act.

5.The learned counsel appearing for the petitioner in Crl.O.P(MD)No.4819 of 2023 would submit that the petitioner is arraigned as Accused No.3. Even according to the case of the prosecution, the entire contraband was seized from A.1 and no contraband was seized from the petitioner/A.3. That apart, the petitioner/A.3 was also not present in the scene of occurrence and no recovery was made from the petitioner/A.3. He was arrested and remanded to judicial custody on 20.02.2022. He would further submit that no independent witness was examined by the respondent and as such, the petitioner made out a prima facie case in order to fulfil the twin condition as contemplated under the NDPS Act. Now, the respondent Police completed the investigation and taken cognizance in C.C.No.601 of 2022 on the file of the learned Additional District Judge / Presiding Officer, Principal Sub Court for EC and NDPS Act Cases, Madurai and therefore, he prayed for bail.

6.The learned counsel appearing for the petitioners in Crl.O.P(MD)Nos.2808 and 1504 of 2023 would submit that the petitioners are arraigned as Accused Nos. 6 and 7 and even according to the prosecution, they were implicated as accused only on the basis of the confession statement of co-accused. Even as per the confession statement, they are selling the contraband. No recovery was made from the petitioners/A.6 and A.7. Except the confession statement, no other material to connect the petitioners/A.6 and A.7. They were arrested and remanded to Judicial custody on 01.04.2022 and 13.12.2022. After the arrest of A.1 to A.3, the petitioner/A.6 and A.7 have been arrested and remanded to judicial custody.

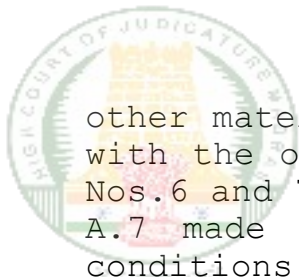


7.The learned Additional Public Prosecutor appearing for the respondent would submit that based on the secret information, the respondent police intercepted the car of the accused and found that they were in possession of 140 kgs of Ganja and recovered the same and opposed to grant bail to the petitioners.

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

9.It is seen that there are totally seven accused. The Ganja, namely 140 kgs, was found in possession of A2 and A.3, who were travelled in Tata Zest Car bearing Registration No.TN-57-BF-3861 from Thiruvrangurichi to Sanarpatti. During the investigation, the respondent police found that the said car belonged to one Ramasamy. He categorically confessed that he handed over the Car to the first accused. In turn, A.1 to A.3 used the said Car for purchasing the contraband from Andhra Pradesh. On secret information, the car was inspected, and they were found in possession of contraband weighing 140 kgs of Ganja. Though A.1 was not present at the scene of crime, he has been implicated on the ground that he borrowed the vehicle from one Ramasamy and handed over the same to A.2 and A.3 in order to transport the contraband and he is the master brain behind the entire crime. As far as Accused Nos.4 and 5 are concerned, they helped the other accused while purchasing the contraband. However, they have not filed any petition before this Court. In so far as Accused Nos.6 and 7 are concerned, they are living in a local area and they used to collect the contraband from A.1 to A.3 and sell the same in the local area. Though they were implicated as accused on the confession statement of the co-accused, there is absolutely no material from them, and the prosecution also failed to produce any material to connect A.6 and A.7 with A.1 to A.3. Even as per the confession statement of the said Ramasamy, the first accused has been implicated as an accused and the car was entrusted by him, in turn, the first accused handed over the car to A.2 and A.3 in order to purchase the contraband. Therefore, there is a material to connect A.1. In so far as Accused Nos.2 and 3 are concerned, they were found in possession of contraband weighing 140 kgs of Ganja. Though after seeing the police personnel, A.2 escaped from the car, immediately, on the same day, he was arrested and remanded to judicial custody, therefore, A.2 and A.3 were in possession of contraband weighing 140 kgs of Ganja, which is a commercial quantity. Hence, the petitioners/Accused Nos.1 to 3 failed to satisfy the twin conditions as contemplated under Section 37 of the NDPS Act. **Accordingly, Crl.O.P(MD)Nos.3948, 3201 and 4819 of 2023 are dismissed in respect of the petitioners/A.1 to A.3.**

10.In so far as the petitioners/Accused Nos.6 and 7 in Crl.O.P(MD)Nos.1504 and 2808 of 2023 are concerned, even according to the case of the prosecution, except the confession statement, no



other material produced by the prosecution in order to connect them with the other accused persons. That apart, the petitioners/Accused Nos.6 and 7 had no previous case. Therefore, the petitioners/A.6 and A.7 made out a prima facie case in order to satisfy the twin conditions as contemplated under Section 37 of the NDPS Act and **this court is inclined to grant bail to the petitioners/ Accused Nos.6 and 7 in Crl.O.P(MD)Nos.1504 and 2808 of 2023**, subject to the following conditions:

[a] Accordingly, the petitioners/Accused Nos.6 and 7 are ordered to be released on bail on condition to 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 learned Principal Special Court for Trial of NDPS case, Madurai, Madurai District 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/Accused Nos.6 and 7 shall report before the trial Court, on all working days, daily at 10.30 A.M., and 05.30 p.m., until further orders.

[d] the petitioners/Accused Nos.6 and 7 shall not commit any offences of similar nature.

[e] the petitioners/Accused Nos.6 and 7 shall not abscond either during investigation or trial.

[f] the petitioners/Accused Nos.6 and 7 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 petitioner in accordance with law as if the conditions have been imposed and the petitioners/Accused Nos.6 and 7 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/-

15/03/2023

/ TRUE COPY /

17/03/2023

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

ps

<https://www.mhc.tn.gov.in/judis>



TO

- 1.THE JUDGE, PRINCIPAL SPECIAL COURT FOR TRIAL OF NDPS CASE, MADURAI,
MADURAI DISTRICT
- 2.THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.
- 3.THE SUPERINTENDENT,
CENTRAL PRISON,
MADURAI.
- 4 THE OFFICER IN CHARGE,
DISTRICT JAIL, DINDIGUL.
- 5.THE INSPECTOR OF POLICE,
NATHAM POLICE STATION,
DINDIGUL DISTRICT.
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC TO M/S.RAJASELVAN.R, Advocate SR-4390

+1 cc to M/S.A.JEYARAM, ADVOCATE SR-4382

ORDER

IN

CRL OP (MD) No.3948 of 2023

Date :15/03/2023

RK/MMS/SAR-(17/03/2023) 7P/9C