



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 20/03/2023

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PRESENT

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

CRL OP(MD). Nos.4293 and 3947 of 2023

Sathya,

... Petitioner/Accused No.7
in CrI.O.P.(MD)No.4293 of 2023

Manikandan,

... Petitioner/Accused No.8
in CrI.O.P.(MD)No.3947 of 2023

Vs

State Rep.by
The Inspector of Police,
Pattiveeranpatti Police Station,
Dindigul District.
Cr.No.3/2023.

... Respondent/Complainant
in both petitions

In both petitions:-

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

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

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

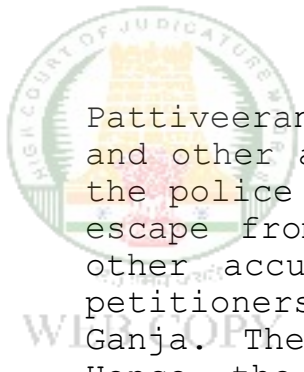
COMMON PRAYER :-

For Bail in Crime No.03/2023 on the file of the Respondent Police.

COMMON ORDER : The Court made the following order :-

The petitioners/A7 and A8, who were arrested and remanded to judicial custody on 03.01.2023 (A7) and 12.02.2023 (A8) for the offences punishable under Sections 8(c) r/w 20(b)(ii)(C), 25 and 29 (i) of NDPS Act, in Crime No.03 of 2023 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 03.01.2023 at 11.30 hours, based on the secret information received by the Sub-Inspector of Police, the respondent police conducted raid near Balu shop,



Pattiveeranpatti to Ayyankottai Road, at that time, the petitioners and other accused persons were coming in the two wheeler. On seeing the police party, the petitioners and other accused had attempted to escape from the spot. However, the respondent police nabbed the other accused and searched the vehicle and they found that the petitioners and other accused to be in joint possession of 60kgs of Ganja. The said contraband was seized by the respondent police. Hence, the case.

3.The learned counsel for the petitioners would submit that there are 8 accused in this case and the petitioners are arrayed as A7 and A8. He would further submit that as far as the first petitioner/A7 is concerned, who is none other than the daughter of the second petitioner/A8 and except the relationship, there is absolutely no overt act as against A7. In fact, the other accused persons are also the same family members. Even according to the case of the prosecution, A1 to A5 were found in possession of 60kgs of contraband. Recording their confession statement, the second petitioner/A8 was arrested and seized 4kgs of Ganja. As far as the first petitioner/A7 is concerned, she gave birth to a female child only on 10.10.2022. The alleged occurrence had taken place on 03.01.2023 and the petitioners were arrested on 03.01.2023(A7) and 12.02.2023(A8). Even according to the case of the prosecution, the first petitioner/A7 was not in possession of any contraband and except the confession statement of the co-accused, there is absolutely no material to connect the first petitioner/A7 herein. Hence, he prays for bail to the petitioners.

4.Per contra, the learned Additional Public Prosecutor filed a counter affidavit and submitted that A7 is the daughter of A8 and except A2, all are same family members. Based on the confession of A1 to A5, A6 was arrested and remanded by the respondent police through PT warrant on 10.01.2023. The confession statement of A6 reveals that he along with A7 had purchased 70kgs of Ganja from the unknown persons in Andhra Pradesh and transported the same to Sholavandan in a car and kept in the house of A8. On their confession, A8 was also arrested with contraband of 4kgs of Ganja. There are enough material to connect A7 and A8 and as such they are in conscious and constructive possession of contraband weighing 70kgs of Ganja, which is a commercial quantity and as such, he vehemently opposed to grant bail to the petitioners.

5.There are 8 accused in this case and the petitioners are arrayed as A7 and A8. A7 is the daughter of A8 and he only purchased the contraband from Andhrapradesh. However, the prosecution has failed to produce any material to show that the first petitioner/A7 has only purchased the contraband from Andhrapradesh. That apart, she gave birth to a female child only on 10.10.2022. Thereafter, on 03.01.2023, the above crime has been registered by the respondent police. Pursuant to the registration of FIR and after recording the statement of the co-accused, the first petitioner has



been implicated as an accused and she has been arrested and taken to judicial custody on 03.01.2023.

6. Considering the above facts and circumstances of the case and also the fact that the first petitioner/A7 gave birth to a female child only on 10.10.2022 and her five months child is suffering without mother feed, this Court is inclined to grant bail to the first petitioner/A7 with certain conditions.

[a] Accordingly, the first petitioner/A7 is ordered to be released on bail on condition to execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Principal Special Court for EC and NDPS Act Cases, Madurai, 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 first petitioner/A7 shall report before the respondent police daily at 10.30 A.M., until further orders.

[d] the first petitioner/A7 shall not commit any offences of similar nature.

[e] the first petitioner/A7 shall not abscond either during investigation or trial.

[f] the first petitioner/A7 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 first petitioner/A7 in accordance with law as if the conditions have been imposed and the first petitioner/A7 released on bail by the learned Magistrate/Trial Court herself 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.

7. It is made clear that the other accused persons cannot seek indulgence of this Court citing the present order of bail.

8. Insofar as the second petitioner/A8 is concerned, he wants to be in conscious and constructive possession of 4kgs of Ganja along with the other accused persons. Totally 70kgs of Ganja were involved in this case, which is a commercial quantity. Further the second petitioner/A8 has failed to fulfil the twin conditions as



contemplated under Section 37 of NDPS Act. Hence, this Court is inclined to grant bail to the second petitioner/A8 is concerned and this petition is dismissed insofar as the second petitioner/A8.

sd/-

20/03/2023

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20/03/2023

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

SJI

TO

- 1 THE PRINCIPAL SPECIAL JUDGE
FOR EC AND NDPS ACT CASES, MADURAI.
- 2 THE OFFICER INCHARGE
SUB JAIL, NILKOTTAI.
- 3 THE OFFICER INCHARGE,
DISTRICT JAIL, DINDIGUL.
- 4 THE INSPECTOR OF POLICE
PATTIVEERANPATTI POLICE STATION,
DINDIGUL DISTRICT.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.NA.MANIMARAN, Advocate (SR-4604[I] dated 20/03/2023)

ORDER

IN

CRL OP(MD) No.4293 & 3947 of 2023

Date :20/03/2023

PKP/SBN/SAR- /20.03.2023/ **4P/7C**