



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 11/04/2023

WEB COPY

PRESENT

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

CRL OP(MD). No.5946 of 2023

Pandian

... Petitioner/Accused No.3

Vs

State rep., by
The Inspector of Police,
Nagamalai Pudukottai Police Station,
Madurai District.
Crime No.186 of 2022

... Respondent/Complainant

For Petitioner : Mr.M.Jegadeesh Pandian, Advocate

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

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

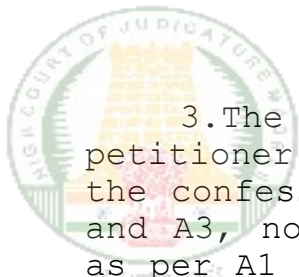
PRAYER :-

For Bail in Crime No.186/2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A3, who was arrested and remanded to judicial custody on 20.07.2022 for the offences punishable under Sections 8 (c) r/w 22C and 25 of NDPS Act, in Crime No.186 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 30.05.2022 at about 15.45 hours, the Sub-Inspector of Police attached to the respondent police station received a secret information. Based on the said information, he along with his team, took an inspection at Vadivelkarai near bridge. At that time, they found auto with two persons, namely, Valli, W/o., Ammasi and Venkateshwaran, S/o., Virumandi and the respondent has seized 22 kilogram of ganja from them. A confession statement was recorded from Valli. In the confession, she stated that she had brought 12kg of Ganja from her house and 10kg of Ganja from Pandian, S/o., Subbaia, thereafter, the contents were seized under a mahajar. Hence, the complaint.



3.The learned counsel for the petitioner submitted the petitioner has been implicated as an accused only on the strength of the confession statement of A1. Except the relationship between A1 and A3, no other material produced by the prosecution. That apart, as per A1 confession, she possess 12kg of Ganja and thereafter, she had taken 10kg of Ganja from the petitioner's house. After taking contraband from the petitioner's house, the first and second accused were proceeded in Auto, at that time, the respondent intercepted them and seized contraband. Accordingly, the accused persons obtained only 10kg of Ganja from the petitioner and it is below the commercial quantity and as such, the petitioner is entitled for bail.

4.The learned Additional Public Prosecutor appearing for the respondent submitted that the petitioner arrayed as A3. So far, the petitioner involved 6 previous cases and all the cases were charge sheeted and he is facing trial. There was a conspiracy between A1 and A3 in order to sale Ganja. Therefore, he vehemently opposed to grant bail to the petitioner.

5.It is seen that there are totally three accused, in which, the petitioner arrayed as A3. According to the prosecution, A1 and A2 were proceeding by their Auto, at that time, the respondent intercepted the Auto and they were found in possession of 22kgs of Ganja. The first accused given confession that she already having 12 kgs of Ganja for sale and thereafter, she along with A2 came to petitioner/A3 house and obtained 10kgs of Ganja from him. Except the said confession statement, no other material produced to implicate the petitioner as an accused in this case. The respondent also failed to conduct any search in the house of the petitioner in order to prove to implicate the petitioner in this case. Though the petitioner involved six previous cases, he has been implicated in this case only on the confession statement of the first accused. Admittedly, the entire contraband was found in possession of A1 and A2. Therefore, the petitioner has made out a *prima facie* case and satisfied with Court as per the twin conditions as contemplated under Section 37 of the NDPS Act.

6.Considering the above facts and circumstances of the case and the incarceration of the petitioner from the date of his arrest, this Court is inclined to grant bail to the petitioner with certain conditions.

[a] Accordingly, the petitioner 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



[c] the petitioner shall report before the trial Court on all working days in CC.No.813 of 2022 on the file of the Principal Sessions Court, NDPS Court, Madurai, until further orders.

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

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

[f] the petitioner 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 petitioner 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.

sd/-
11/04/2023

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11/04/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

RMK
TO

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

+1 CC to M/s.M.JEGADEESH PANDIAN, Advocate (SR-5706[I] dated 11/04/2023)

ORDER
IN
CRL OP(MD) No.5946 of 2023
Date :11/04/2023