



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

Date : 25.04.2023

PRESENT

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

CRL OP(MD) . Nos.7725 and 7728 of 2023

Gowtham	... Petitioner/A5 in
	Crl.O.P(MD) .No.7725 of 2023
Thinakaran @ Deena	... Petitioner/A4 in
	Crl.O.P(MD) .No.7728 of 2023

Vs.,

The State through The Inspector of Police, Silaiman Police Station, Madurai District. (In Crime No.377 of 2022)	... Respondent/Complainant in both cases
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In both cases

For Petitioners : Mr.C.Prithviraj
For Respondent : Mr.T.Senthilkumar,
Additional Public Prosecutor

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

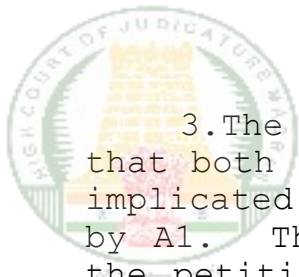
COMMON PRAYER :-

For Bail in Crime No.377/2022 on the file of the respondent police.

COMMON ORDER : The Court made the following order :-

The petitioners/A5 & A4, who were arrested and remanded to judicial custody on 16.11.2022 and 14.11.2022 for the offences punishable under Sections 8(c), 20(b)(ii)(C) and 29(1) of NDPS Act in Crime No.377 of 2022 on the file of the respondent police, seek bail.

2.The case of the prosecution is that on 24.10.2022 at about 6.30 am., based on the secret information, the Sub-Inspector of Police went to patrol duty along with other police officials near Waste Water Recycling Treatment Area and they found four persons in two wheeler and on seeing the police, the persons tried to escape and the respondent caught hold A1 with a gunny bag and they seized 22.5kgs of contraband. A1 has given confession statement that the accused persons have purchased a contraband from the petitioners. Hence, the case.



3. The learned counsel appearing for the petitioners submitted that both the petitioners are arrayed as A5 and A4. They have been implicated as accused only based upon the confession statement given by A1. The prosecution failed to produce any material to connect the petitioners along with A1. Though the petitioners involved in other IPC cases, they never involved in NDPS cases so far. A4 was arrested and remanded to judicial custody on 14.11.2022 and A5 was arrested and remanded to judicial custody on 16.11.2022.

4. The learned Additional Public Prosecutor submitted that all the accused persons A1 to A5 were in possession of contraband weighing 22.5kgs. However, on seeing the police personnel, except A1, other accused persons fled away. Therefore, on the confession of A1, the petitioners have been implicated as accused. He further submitted that in so far as A4 is concerned, he has five previous cases and A5 is concerned, he has eight previous cases.

5. In view of the above, it revealed that the petitioners are implicated only based on the confession statement recorded by A1. A1 was alone found in possession of contraband weighing 22.5kgs. There is no material produced by the prosecution in order to connect the petitioners with A1. Therefore, the petitioners have made out a *prima facie* case in order to satisfy the twin conditions as contemplated under Section 37 of the NDPS Act. That apart, they were arrested and remanded to judicial custody on 14.11.2022 and 16.11.2022. Therefore, this Court is inclined to grant bail to the petitioners subject to the following conditions:

[a] Accordingly, the petitioners 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 blood related sureties each for a like sum to the satisfaction of the Judicial Magistrate No.II, Madurai, and on further conditions that:

[b] the petitioners and 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 shall report before the respondent police daily at 10.30 a.m., for a period of four weeks and thereafter, as and when required.

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

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

[f] the petitioners 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 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].



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

sd/-
25/04/2023

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25/04/2023

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

Rmk

TO

- 1 THE JUDICIAL MAGISTRATE NO.II,
MADURAI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.
- 3 THE INSPECTOR OF POLICE
SILAIMAN POLICE STATION, MADURAI DISTRICT.
- 4 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP (MD) . Nos.7725
and 7728 of 2023
Date :25/04/2023

SS/VR/SAR /25/04/2023/3P/6C