



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 27/04/2023
PRESENT

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

CRL OP(MD) . 7195 of 2023

Dharmapandi

... Petitioner/Accused 2

Vs

State rep., by
The Inspector of Police,
Sedapatty Police Station,
Madurai District.
(Crime No.85 of 2018)

... Respondent/Complainant

For Petitioner : Mr.A.PRASANNA RAJADURAI, Advocate
for Mr.SUNDARAPANDIAN S.S, 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.85 of 2018 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/A2, who was arrested and remanded to judicial custody on 18.04.2020 for the offences punishable under Sections 8(C), 20(b)(ii)(C) and 25 of NDPS Act in Crime No.85 of 2018 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 27.04.2018 at about 09.00 hours, based on the secret information, the respondent police went to raid in a petitioner's farm land in the southern side of Alagureddiapatti to Thangalachery main road. The respondent police saw 5 members with two white color gunny bag and red color two wheeler bearing Registration No.TN 58 AY 8804 Yamaha Fazer in a suspicious manner. On seeing the respondent police, all the accused tried to escape from the scene of occurrence, but the respondent police surrounded and apprehended A4 Ravi and A5 Theivam. At that time, A1 Ravi @ Ravi Chandran, petitioner/A2 Dharmapandi and A3 Kasipandi escaped from the scene of occurrence. Thereafter, the respondent police searched the gunny bags possessed by the accused and found 78 kgs of Ganja. Hence, the case.

3. It is seen that there are totally five accused, in which, the petitioner is arrayed as A2. According to the case of the prosecution, A1 to A5 were in possession of contraband weighing 78 kgs of Ganja in the field belongs to the petitioner herein. After



seeing the police parties, A1 to A3 escaped from the occurrence. The respondent caught A4 and A5 and found in possession of 78 kgs of ganja. The confession statement of A4 revealed that they used to purchase Ganja from A1 to A3. A1 to A3 used to purchase Ganja from Andrapradesh. However, except this confession statement, no other material produced while filing a final report to connect the petitioner in this case. Admittedly, A4 and A5 were only in possession of contraband weighing 78kgs of Ganja. Further, this Court while dismissing the bail petition filed by the petitioner directed the trial Court to conclude the trial in CC.No 159 of 2020 within a period of two months from the date of receipt of a copy of that order on 18.10.2022. However, so far prosecution did not even examine any one of witness. Though the crime was registered on 27.04.2018 and on the same day, the confession statement was recorded from A4, the petitioner was arrested only on 18.04.2020. For the past three years, he is in incarceration without even facing any trial. The trial is also pending for the past three years before the trial Court without any reason.

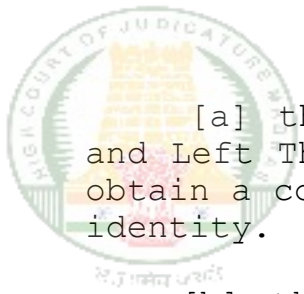
4. The learned Additional Public Prosecutor submitted that so far the petitioner involved 7 previous cases, out of which, 6 cases registered under the NDPS Act. Therefore, the petitioner is the habitual offender and if he let out on bail, again he would engage in the same business.

5. The learned counsel for the petitioner submitted that the petitioner is suffered with cardiac illness. He also produced medical report of the petitioner before this Court on 25.04.2023.

6. On perusal of medical report of the petitioner it revealed that the petitioner was affected by Coronary Artery disease and he is very much limited activities and with easy with fatigability. At present, the petitioner was doing well with no complaint regarding his previous heart attack and he has improved after in surgery and he is performing his regular activities well. Thus, it is clear that the petitioner already underwent for cardiac surgery. It is also relevant to rely upon the judgment of Hon'ble Supreme Court reported in **2023 Livelaw (SC) 260** in the case of **MOHD MUSLIM @ HUSSAIN Vs., STATE (NCT of DELHI)**.

7. Considering the facts and circumstances of the case and also the petitioner is suffered by cardiac disease, this Court is inclined to grant bail to the petitioner.

8. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two blood sureties, each for a like sum to the satisfaction of learned Special Court for Exclusive Trial of Cases under EC and NDPS Act, Cases, Madurai, and on further conditions that :-



[a] the petitioner 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.

[b] the petitioner shall report before the trial Court daily morning at 10.30 a.m., and evening 05.30 pm., until further orders.

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

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

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[f] On breach of any of the aforesaid conditions, the learned 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 himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

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

sd/-

27/04/2023

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27/04/2023

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

RMK

TO

1 THE SPECIAL JUDGE FOR

EXCLUSIVE TRIAL OF CASES UNDER EC & NDPS ACT CASES, MADURAI.

2 THE SUPERINTENDENT, CENTRAL JAIL, MADURAI.

3 THE INSPECTOR OF POLICE,
SEDAPATTY POLICE STATION, MADURAI DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.SUNDARAPANDIAN.S.S Advocate SR.No.6836

ORDER IN

CRL OP(MD) No.7195 of 2023

Date :27/04/2023

SS/VR/SAR. /27.04.2023/3P/6C

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