



WEB COPY

CRL OP(MD).



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 14/06/2023

PRESENT

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

CRL OP(MD) . No.9454 of 2023

T.Arunthulasi,

... Petitioner/Accused No.2

Vs

The Inspector of Police,
Vadaseri Police Station,
Kanyakumari District.
Crime No.118 of 2022.

... Respondent/Complainant

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

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

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

PRAYER :-

To grant Bail for the Petitioner/Accused in C.C.No.14 of 2023 on the file of the learned I Additional District and Sessions Judge for EC and NDPS Cases, Madurai in Crime No.118 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A2, who is facing trial for the offences punishable under Sections 8(c) r/w 22(C) and 29(1) of NDPS Act in C.C.No.14 of 2023 on the file of the learned I Additional District and Sessions Judge for EC and NDPS Cases, Madurai in Crime No.118 of 2022 on the file of the respondent Police, seeks bail.

2.The case of the prosecution is that on secret information, on 16.04.2022 at about 06.30 a.m., the respondent police were mounted surveillance near Amni bus stand. On seeing the police party, the petitioner and the co-accused attempted to escape from the place. The respondent police nabbed the petitioner and enquired him. On



enquiry, they found that the petitioner along with the co-accused were found in joint possession of 54 grams of Methylene Dioxy Methamphetamine (MDMA). Hence, the case.

3.The learned counsel for the petitioner would submit that there are three accused in this case and the petitioner is arrayed as A2. Allegedly, they were found in possession of 54 grams of Methylene Dioxy Methamphetamine (MDMA). However, the respondent had taken samples of only 2 grams instead of 5 grams. As per G.O.1/88 and 1/89, the minimum sample should have taken for 5 grams for chemical analysis. At this point, the other High Courts and the High Supreme Court have also granted bail to the accused. Considering the above fact, the petitioner may be granted bail by this Court.

4.The learned Additional Public Prosecutor would submit that though the sample was taken only for two grams from third items, the learned Magistrate had sent the entire contraband, which was seized from the accused persons for chemical analysis. On verification of Forensic Science and Laboratory Report revealed that all the three items were send for chemical analysis. Therefore, those judgments are not applicable to the case on hand. That apart, the petitioner was in possession of commercial quantity and that the petitioner has also failed to satisfy the twin conditions as contemplated under Section 37 of the NDPS Act. In this regard, the learned Additional Public Prosecutor also produced the notification of the Central Government Miscellaneous Section 29 (Repeal and Savings) were issued under the NDPS Act.

5.Taking note of the above facts and circumstances of the case, this Court is not inclined to grant bail to the petitioner. Hence, the petition stands dismissed.

sd/-
14/06/2023

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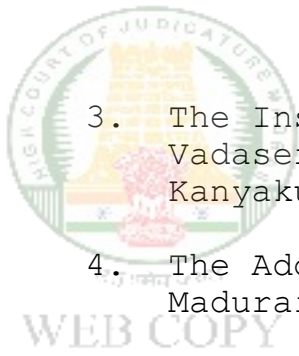
/07/2023

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

SJI

TO

1. The I Additional District and Sessions Judge,
EC and NDPS Cases,
Madurai.
2. The Superintendent
Central Prison,
Pallayankottai.



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3. The Inspector of Police,
Vadaseri Police Station,
Kanyakumari District.

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER

IN

CRL OP(MD) No.9454 of 2023

Date :14/06/2023

DL/(30.06.2023)/ 3P/5C