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CRL OP(MD). A



23

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 30/06/2023

PRESENT

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

CRL OP(MD). No.11957 of 2023

Balamurugan @ Bala,

... Petitioner/Sole Accused

Vs

The Inspector of Police,
Theni Police Station,
Theni District.
Crime No. 1068 of 2021.

... Respondent/Complainant

For Petitioner : M/s Eswaran.M,
Advocate.

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

PRAYER :-

For Anticipatory Bail in Crime No. 1068 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused who apprehends arrest at the hands of the respondent police for the offences punishable under sections 20(b), (ii) (C) & 8(c) of NDPS Act, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the DTDC Courier informed about the two cartoon boxes send in favour of Lucky Plywood and no one is there in the said address. However, the Courier office contacted the phone No.9025208183, which was printed in the courier box order and the petitioner attended the call.



3. Heard both side and perused the materials available on record including the First Information Report.

4. It is seen that the petitioner herein is arrayed as sole accused. Even according to the prosecution, the Courier, viz., DTDC informed about the two boxes sent in favour of one Lucky Plywood situated at No.151/24/3, Cumbam Road, Theni. On verification, no one is there in the said address, in the name of Lucky Plywood. However, the Courier office contacted the phone No.9025208183, printed in the courier box order, the petitioner attended the call. When he claimed the parcel, the courier office, insisted the petitioner to produce PAN card, immediately, the petitioner went away and did not claim the contraband. The petitioner is also not owned the said phone number and he had no previous antecedents, only on the statement recorded from the courier office, the petitioner has been implicated as an accused. Though the contraband weighing 21 Kgs, the prosecution failed to produce any material to connect the petitioner with the contraband. That apart, the petitioner has no previous case.

5. Taking into consideration of the facts and circumstances of the case and also the fact that there is no previous case against the petitioner and that the crime of the year 2021 and that the petitioner satisfy the twin test as contemplated under Section 37 of the NDPS Act, this court is inclined to grant anticipatory bail to the petitioner with certain conditions:

5. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate, Theni, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and 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.

[b] the petitioner shall report before the respondent police daily at 10.30 am., for a period of six weeks and thereafter as and when required for interrogation.

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

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

[e] 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 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].

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

sd/-
30/06/2023

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/07/2023

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

TO

1. The Judicial Magistrate, Theni
2. do through the Cheif Judicial Magistrate,
Theni.
3. The Inspector of Police,
Theni Police Staiton,
Theni District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.M.ESWARAN, Advocate (SR-10176[I] dated 04/07/2023)

ORDER
IN
CRL OP(MD) No.11957 of 2023
Date :30/06/2023

DL/(06.07.2023)/ 3P/6C