



CRL OP(MD). No.16379 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 11.09.2023

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.16379 of 2023

Sivasakthi

... Petitioner/ Accused No.2

Vs

State represented by
The Inspector of Police,
Subramaniapuram Police Station,
Madurai City.
(Crime No.443 of 2021)

... Respondent/ Complainant

For Petitioner : Mr.K.Sathish Kumar, Advocate.

For Respondent : Mr.K.Sanjai Gandhi,
Government Advocate (Crl. Side).

PETITION FOR ANTICIPATORY BAIL Under Section 438 of Cr.P.C.

PRAYER :-

For Anticipatory Bail in Crime No.443 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/A.2, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 328 IPC and Sections 8(c) and 22(b) of NDPS Act, in Crime No.443 of 2021, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that on 08.08.2021, at about 09.00 a.m., when

the defacto complainant along with police officials were in usual check-up, the first

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accused¹ was found in suspicious manner. After seeing the police officials, the first accused tried to escape from the place and the police officials secured the first accused and found that he was in possession of 25 tablets of Nitrazepam tablets IO, Nitravet – 10. Hence, the defacto complainant arrested the first accused and obtained confession statement from him. As per confession statement, he purchased the above said tablets from the petitioner. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that only based on the confession of the first accused, the petitioner has been falsely implicated in this case and the tablets were recovered only from the first accused. He would further submit that the petitioner and the first accused are studying in the same college and that since the petitioner is the friend of the first accused, he has been falsely implicated in this case.

4.It is not in dispute that the first accused has already been arrested and released on bail. Even according to the prosecution, the contraband was recovered only from the first accused and there was no recovery from the petitioner.

5.When the earlier petition was taken up for hearing, the learned Government Advocate (Criminal Side) submitted that the petitioner is the main supplier and he has only given tablets to the first accused for selling and hence, they were strongly objecting to grant anticipatory bail.



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6. When the matter is taken up for hearing today, the learned Government Advocate (Criminal Side) appearing for the respondent would submit that they have not collected any material to show that the petitioner is the main supplier for the alleged tablets.

7. It is also not in dispute that the petitioner is having one previous case for the offence under Section 75 of TNCP Act.

8. Considering the above facts and circumstances and also the facts that the first accused from whom properties recovered has already been released on bail and that the petitioner is not having any previous case under the NDPS Act or any serious offence, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

9. 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 of receipt of a copy of this order, before the Principal Special Court for EC and NDPS Act cases, Madurai, on condition that the petitioner shall 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 Magistrate concerned and on further conditions that:

[a] the petitioner and the sureties shall affix their photographs and left thumb



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impression in the surety bond and the Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity.

[b] the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders.

[c] the petitioner shall not tamper with the 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 is 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].

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

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

CSM

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TO

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1 THE PRINCIPAL SPECIAL JUDGE FOR EC AND NDPS ACT CASES,
MADURAI.

2 THE INSPECTOR OF POLICE, SUBRAMANIYAPURAM POLICE STATION,
MADURAI CITY.

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

+1 CC to M/s.K.SATHISHKUMAR, Advocate (SR-13533[I] dated 12/09/2023)

ORDER

IN

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Date :11/09/2023

RS/JGB/SAR-(12.09.2023) 5P 5C

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