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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 22/09/2023

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.OP(MD)No.16832 of 2023

Alagu

: Petitioner/ A3

Vs.

The State rep. by
Inspector of Police,
Natham Police Station,
Dindigul District.
(Crime No.71 of 2022)

: Respondent/Complainant

For Petitioner : Mr.S.Selvakumar
Advocate

For Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor

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

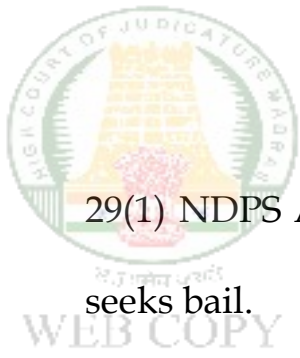
PRAYER:-For Bail in CC No.601 of 2022 on the file of the Special Court for EC and NDPS Act cases, Madurai, in Crime No.71 of 2022 on the file of the respondent police.

ORDER: The Court made the following order:-

The petitioner/A3, who was arrested and remanded to judicial custody, on

20/02/2022 for the offences punishable under sections 8(c) r/w 20(b)(ii),(C), 25 and

<https://www.mhc.tn.gov.in/judis>



29(1) NDPS Act cases, in Crime No.71 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 19/02/2022 at about 23.00 hours, on secret information, the respondent police conducted a vehicle check up at Senthurai Junction. At that time, the accused persons coming in the Car bearing registration No.TN-57-BF-3861. On seeing the police, the accused persons attempted to escape, but the respondent police nabbed the accused persons and found that they were in joint possession of 140 Kgs of Ganja and the said contraband was seized. Hence, the case.

3.Heard both sides.

4.This is the 6th bail application. The earlier bail application came to be dismissed, after considering the merit of the case.

5.Repeatedly the very same argument was advanced by the petitioner without any change of circumstances. So according to him, the change of circumstance is that even though, a direction was issued by this court in CrI.OP(MD)No.13112 of 2023 directing the Special Court to complete the trial process by splitting the case against the accused persons, who are regularly appearing. But it could not be completed, since warrant has been issued against A4.

6.Report has been called for from the trial court and the report also submitted.

Wherein, it has been stated that on 17/07/2023, all the accused persons appeared and

<https://www.mhc.tn.gov.in/judis>



trial was fixed, on 07/08/2023. At that time, A4 was absent. Warrant was issued against him. PT warrant was also issued. So, A4 was also produced, on 08/09/2023. Now the trial is fixed, on 22/09/2023. This petitioner has also engaged an Advocate for defending his case.

7.The learned counsel appearing for the petitioner would submit that the petitioner engaged an Advocate for the purpose of his appearance. It is also further submitted that only for the purpose of appearance, he engaged the Advocate and not for defending the case. This sort of contention is totally out of place and cannot be permitted to be raised and accepted. The contention that he wants bail for the purpose of engaging the Advocate to defend his case is completely not correct and liable to be rejected.

8.The second contention is that the case of the prosecution is highly improbable, since he alleged to have escaped from that place; Thereafter only, he was arrested. So according to him, absolutely, there is no material to implicate him.

9.But per contra, the learned Additional Public Prosecutor would submit that within 4 hours from the date of the occurrence, the petitioner was arrested and remanded to judicial custody. He was found in possession of the above said contraband along with the co-accused. Because of his escape only, he could not be arrested on the spot itself. Whether this factual circumstances is true or not is a matter for consideration by the trial court.



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10.The learned counsel appearing for the petitioner would also further rely upon the following judgments viz., Tariq Ahmad Dar and another Vs. State and others (2008-CRI.L.J.3584); and Union of India Vs. Shiv Shankar Kesari (2008-CRI.L.J.335) for the purpose of argument that prolonged incarceration can be a matter for consideration for granting bail.

11.No doubt that prolonged incarceration period is a relevant factor for granting bail. But here, as mentioned above, a direction was also issued to the trial court considering the incarceration period. The trial is also fixed. The question of granting bail may hamper the trial process. There is no guarantee that the petitioner will not abscond, if released on bail.

12.So, I find no reason to entertain this petition. After the examination of the materials witnesses are over, the petitioner is at liberty to approach the concerned trial court itself for bail without approaching this court repeatedly.

13.In the result, this criminal original petition is dismissed.

sd/-
22/09/2023

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/10/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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To,

- 1.The Principal Special Court
for EC & NDPS Act cases,
Madurai.
- 2.The Superintendent,
Central Prison, madurai.
- 3.The Inspector of Police,
Natham Police Station,
Dindigul District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ORDER
IN
CRL OP(MD) No.16832 of 2023
Date :22/09/2023

SSA/DD/09.10.2023/5P/5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023