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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 19/09/2023

PRESENT

The Hon`ble Mr.Justice P. DHANABAL

CRL OP(MD). No.16800 of 2023

Marimuthu

... Petitioner/ Accused No.8

Vs

The State represented by
The Inspector of Police,
Town West Police Station,
Thanjavur District.
Cr. No. 294/2023.

... Respondent/Complainant

For Petitioner : M/s.V.Kathirvelu, Senior Counsel
for M/s.Prabhu.K,
Advocate.

For Respondent : Mr.S.Ravi,
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime No. 294 of 2023 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/A8 who was arrested and remanded to judicial custody on
25.07.2023 for the offences punishable under Sections 8(c) r/w.20(b)(ii)(C),25 and 29



(2)(a) of NDPS Act in Crime No.294 of 2023 on the file of the respondent Police, seek bail.

2. The case of the prosecution is that on 06.03.2023 at about 11.00 a.m., the respondent police on secret information intercepted a lorry bearing Reg.No. TN 76 AV 5563 they saw seven gunny bags of ganga weighing 280kgs. It is further alleged that they have transported the same from Andhra for the purpose of selling it in Tamil Nadu, hence the case came to be registered.

3. The learned counsel for the petitioner would submit that the petitioner is innocent and a false case has been foisted against him. He would further submit that the petitioner is only the owner of the lorry he is not aware of the said transportation. He would further submit that the lorry was carrying 500bags of rice at the relevant point of time and he is also having receipts for the same. He would further submit that the petitioner is in judicial custody from 25.07.2023, hence he may be granted bail.

4. The learned Additional Public Prosecutor would submit that A1 is the main accused and A4 also involved in the said occurrence. Though the petitioner is the owner of the lorry he also made frequent phone calls to the other accused and the quantity of contraband involved is 280 kgs which falls under the category of commercial quantity. He would further submit that earlier application was dismissed by this Court on 01.09.2023 and there is no change in circumstances of the



case to consider the present application and hence the petition may be dismissed.

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However he fairly concedes that the investigation has been completed and final report has been filed before the Special Court of NDPS Act cases, Madurai and the same was also taken on file in C.C. No.166 of 2023.

5. Heard both side and perused the materials available on record.

6. Considering the rival submissions on either side and considering the fact that investigation was completed and final report filed before the concerned Court and also the fact that the petitioner is only owner of the lorry and he is also not present in the scene of occurrence and no previous case is pending against the petitioner and considering the period of incarceration and all other aspects, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

[a] Accordingly, the petitioner is ordered to be released on bail on condition to 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 Special Court under Essential Commodities Act Cases, Thanjavur District and on further conditions that:

[b] the petitioner shall report before the trial Court on all working days at 10.30 a.m., 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 Judicial 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/-
19/09/2023

/ TRUE COPY /

19/09/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AAV

TO

1 THE JUDGE,
SPECIAL COURT UNDER ESSENTIAL COMMODITIES ACT CASES,
THANJAVUR DISTRICT.

2 THE INSPECTOR OF POLICE
TOWN WEST POLICE STATION, THANJAVUR DISTRICT.



3 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.

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

+1. CC to M/S.PRABHU.K Advocate SR.No.13851

ORDER
IN

CRL OP(MD) No.16800 of 2023
Date :19/09/2023

SS/19/09/2023/5P/6C

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