



CRL OP(MD). No.18853 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 19/10/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD). No.18853 of 2023

Dharma,

... Petitioner/ Accused No.3

Vs

**State Rep.by
The Inspector of Police,
Papanasam Police Station,
Thanjavur District.
(Crime No.265 of 2023).**

... Respondent/ Complainant

**For Petitioner : Dhilipan Pandian R.L., Advocate.
For Respondent : Mr.RMS.Sethuraman,
Additional Public Prosecutor**

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

PRAYER :-

For Anticipatory Bail in Crime No. 265/2023 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 8(c), 20(b)(ii)(B) of

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



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NPDS Act, 1985 in Crime No.265 of 2023 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that on receiving secret information the respondent police conducted a vehicle check up and that time, the petitioner herein and other accused have illegally found in possession of 1.200 Kgs of Ganja. Hence the case.

3.The learned counsel appearing for the petitioner would submit that the contraband was recovered only from one Mahendiran's vehicle bearing Regn.No.TN 68 AF 3206 Hero Splendor and Eswaran and no contraband was recovered neither from the petitioner nor his vehicle. He would further submit that the petitioner is innocent and he has not committed any offence as alleged by the prosecution and his name has been falsely implicated in this case and seeks, anticipatory bail.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that while the respondent police on secret information went to the scene of occurrence, the accused persons run away from the spot after left the two wheelers and the contraband was recovered from the vehicles of Mahendran and Eswaran. He would further submit that no contraband was recovered form the petitioner's vehicle and based on the confession of co-accused the petitioner herein arrayed as accused and the investigation of the case is pending and hence, strongly opposed to grant anticipatory bail to the petitioner.

5. On perusal of the FIR, it is noticed that no contra band was recovered from the petitioner.

6.Taking into consideration the principles stated by the Honourable Supreme Court in Gurubaksh Singh Sibbia Etc., vs. State of Punjab reported in 1980 AIR 1632 and Lal Kamlendra Pratap Singh vs. State of Uttar Pradesh and others reported in



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(2009)4 SCC 437 and Joginder Kumar vs. State of U.P. and others reported in (1994) 4 SCC 260 and taking into consideration the origin of crime, it is seen that the offence alleged as against the petitioner is not a case of heinous crime. Further the petitioner is having permanent residents at Thanjavur District. Hence the principles stated in Hussainara Khatoon & Ors vs. Home Secretary, State Of Bihar reported in AIR 1979 SC 1360 is taken into consideration. In that case, the Hon'ble Supreme Court has cautioned that pre-trial detention is not to be encouraged nor is to be encourageable pre-trial release on sureties; that if the Court is satisfied after taking into consideration that the accused has his roots in the community and is not likely to abscond, he can safely be released on his personal bond.

7. In view of the above, this Court is inclined to grant anticipatory bail to the petitioner. 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 is made ready, before the learned Additional District Judge, Presiding Officer, Special Court under Essential Commodities act, Thanjavur District 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 likesum 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 shall affix his photograph 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 appear before the respondent police daily at 10.30 am

until further orders;

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[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 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 229A IPC.

sd/-
19/10/2023

/ TRUE COPY /

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

TRP
TO

- 1 THE ADDITIONAL DISTRICT JUDGE
PRESIDING OFFICER, SPECIAL COURT UNDER
ESSENTIAL COMMODITIES ACT, THANJAVUR DISTRICT.
- 2 THE INSPECTOR OF POLICE
PAPANASAM POLICE STATION,
THANJAVUR DISTRICT.



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

+1 CC to M/s.R.L.DHILIPAN PANDIAN, Advocate (SR-15495[I] dated 20/10/2023)

ORDER
IN
CRL OP(MD) No.18853 of 2023
Date :19/10/2023

PKP/JGB/SAR- /30.10.2023/ 5P/ 5C

Madurai Bench of Madras High Court is issuing certified
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