



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2023

PRESENT

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

WEB COPY

CRL.O.P(MD)No.22280 of 2022

Chalapaka Lokeswara Prasad

...Petitioner/Accused Rank Not Known

-vs-

The State represented by
The Inspector of Police,
Thadikombu Police Station,
Dindigul District.
(in Cr.No.224 of 2022)

...Respondent/Complainant

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

PRAYER :-

For Bail in Crime No.224 of 2022 on the file of the Respondent Police.

For Petitioner : Mr.K.Navaneetha Raja

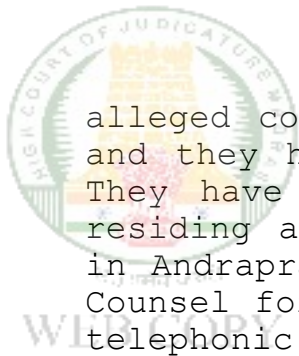
For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor

O R D E R

The petitioner, who was arrested and remanded to judicial custody on 04.08.2022 for the offences punishable under Sections 8 (c) r/w 20(b)(ii)(C) and 25 of NDPS Act in Crime No.224 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution, as per the de-facto complainant, is that on 28.07.2022 at about 13.00 hours, based on a secret information, the respondent police went near the EB Colony Graveyard, where, the accused Nos.1 to 4 were trying to separate a commodity from a gunny bag and the respondent police found that the accused Nos.1 to 4 were found in possession of 34 kgs of ganja. Hence, the case. Later, during the course of the investigation, the involvement of the petitioner with the other main accused came to light.

3.The learned Counsel for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case based on the confession of A8. He would also submit that the



alleged contraband is stated to have been recovered from A14 and they have not spoken about the involvement of the petitioner. They have only stated that A8, who is a native of Dindigul and residing at Andrapradesh, has purchased ganja from various persons in Andrapradesh to supply it to A1 to A4 at Dindigul. The learned Counsel for the petitioner would submit that other than the alleged telephonic conversations, there is no other material to connect the petitioner with the other accused. He would further submit that no recovery has also been made from the petitioner. Hence, he would seek for bail to the petitioner.

4.The learned Additional Public Prosecutor would submit that the petitioner is the kingpin, who has supplied drugs to the other accused. He would further submit that based on the confession of A8, the petitioner was arrested on 04.08.2022 and during such time, one vehicle was recovered from the petitioner. He would further submit that there are number of telephonic conversations among the petitioner, A1, A12, A20 and A14. During the period between 23.05.2022 to 04.08.2022, the petitioner had made 58 calls to A1, 306 calls to A12, 43 calls to A20 and 98 calls to A14. He would further submit that A12 in this case one Divya, is the concubine of the petitioner and during the period between 30.05.2022 to 04.08.2022, there are 306 calls between the petitioner and A12. Further, during the period from 22.05.2022 to 02.08.2022, she has also contacted A1 three times during the period from 30.05.2022 to 04.08.2022 and she has contacted A14, 121 times and there are ample materials to show that there was close nexus between the petitioner and the other accused and the petitioner's concubine A12 Divya and the other accused.

5.He would submit that though A1 has not disclosed about the involvement of the petitioner, seizure of the mobile phone belonging to A1 has disclosed that A1 was in constant touch with the petitioner through video call and further recovery of data through software also proved that the petitioner was in constant touch with A1 through video call. Apart from that, there are specific incidents of A1's brother, Sundarapndian, having transferred amount to the accounts A12, who is the concubine of the petitioner and later the amounts have also been transferred to the petitioner.

6.He would further submit that apart from this case, the petitioner is also involved in a case in Crime No.397 of 2022 registered by the Tuticorin South Police Station, where, the accused, from whom the contraband has recovered, had also confessed that the petitioner is the person who has supplied the contraband to him. He is also involved in yet another case registered by the Ramanathapuram Police Station in Cr.No.103 of 2022 wherein, the accused in that case also have confessed that the petitioner is the person, who has supplied ganja to them.



7.He would further submit that this is the second petition for bail and the earlier petition for bail in Crl.O.P.(MD)No.16039 of 2022 was dismissed on 03.11.2022 on merits and there is no change of circumstances. He would further submit that the investigation is pending and further extension of three months has been granted for filing the charge sheet. He would also submit that since the investigation is pending, the petitioner cannot at this stage state that he is not guilty of offence and the petitioner has not satisfied the conditions, as required under Section 37 of NDPS for grant of bail. Hence, he would object for grant of bail to the petitioner.

8.The petitioner is arrayed as A15 The contraband involved in this case 34 kg which is commercial quantity. Hence the petitioner has to satisfy three conditions under section 37 of NDPS Act :

a)opportunity to the Public Prosecutor to oppose the bail

b) *prima facie* satisfaction regarding availability of ground for believing that the accused is not guilty.

c) he is not likely to commit any offence while on bail.

9.All submission of the petitioner with regard to the false implication in the case are ground for defence which can be kept open for consideration at the time of the trial.

10.On the broad probabilities of this case, this Court at this juncture is unable to record its satisfaction on the existence of any substantial and probable cause for believing that the accused is not guilty of the offences charged. Further, he is also involved in two other cases registered under the NDPS Act.

11.This Court cannot at this stage conclude that the accused is not likely to commit any offence while on bail, thereby the condition imposed for grant of bail operates against the petitioner thereby the petition is liable to be dismissed. In the result, the Criminal Original Petition stands dismissed.

sd/-

21/02/2023

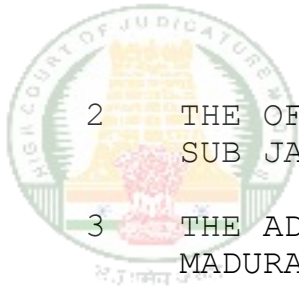
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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

CMR
TO

1 THE INSPECTOR OF POLICE
THADIKOMBU POLICE STATION, DINDIGUL DISTRICT



CRL.O.P(MD)N



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- 2 THE OFFICER INCHARGE
SUB JAIL, DINDIGUL DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

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ORDER
IN
CRL OP (MD) No.22280 of 2022
Date :21/02/2023

PKP/RR/SAR-4/03.03.2023/ **4P/4C**