



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

Monday, the Sixth day of February Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD) No.22454 of 2022

VELMURUGAN @ VETRIVELMURUGAN

... PETITIONER/ACCUSED NO.6

Vs

State Rep.by
THE INSPECTOR OF POLICE
KODAL PUDUR P.S.MADURAI CITY,
MADURAI DISTRICT.
CRIME NO.1388 OF 2020.

... RESPONDENT/COMPLAINANT

For Petitioner	:	M/S.NIRANJAN S.KUMAR Advocate
For Respondent	:	MR.T.SENTHIL KUMAR, Additional Public Prosecutor

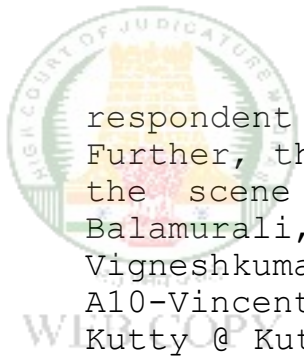
PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : TO ENLARGE THE PETITIONER/ACCUSED NO.6 ON BAIL IN CC.NO.120 OF 2021 ON THE FILE OF II ADDITIONAL SPECIAL COURT FOR NDPS ACT CASES, MADURAI.

ORDER : The Court Made the following order :-

The petitioner/A6, who is facing trial in C.C.No.120 of 2021 on the file of the II Additional Special Court for NDPS Act Cases, Madurai in Crime No.1388 of 2020 for the offence punishable under Sections 8(c), 20(b)(ii)(C) and 29(1) of Narcotic Drugs and Psychotropic Substances Act, 1985, seeks bail.

2.The case of the prosecution is that on 05.09.2021 at about 14.45 p.m., when the respondent police, was in his regular checkup at Anaiyur, near Imayam Nagar, Amman Nager 1st Street, found that 16 persons were standing in a suspicious manner near a house in 15 feet road. One among the 15 person, namely Pradeep @ Pragadeeswaran/A1 had a white colour gunny bag and others were segregating the contraband. On seeing the respondent police, the petitioner/A6 along with other accused were attempted to escape from the scene of occurrence, but the respondent police surrounded and apprehended A1-Pradeep @ Pragadeeswaran, A2-Kannan and A3-Sudhakaran. On search, the respondent police found 22kgs of Ganja in the said bag. After completing the mandatory procedures under the NDPS Act, the



respondent police arrested A1 to A3 along with the co-accused. Further, the investigation reveals that the persons who escaped from the scene of occurrence, were, A4-Kasi @ Kasirajan, A5-Ovayan Balamurali, the petitioner/A6, A7-Mottai mani @ Manikandan, A8-Vigneshkumar @ Love failure Vicky, A9-Ramkumar @ Pothairamkumar, A10-Vincent Selvaraj @ Thambu, A11-Sivamani, A12-Sathesh Kumar @ Kutty @ Kutty sathesh, A13-Karthick @ Sullankarthick, A14-Manikandan @ Mani, A15-Balaji @ Madras Balaji and all the accused are close associates and they sold the said contraband in Madurai City. The petitioner along with the other accused actively involved in drug trafficking and they tried to sell it in local area in retail.

3.The learned counsel for the petitioner would submit that the petitioner is arrayed as A6 and he is an innocent, in respect of the allegations, in this case. He would further submit that the petitioner admits that there are few previous cases registered against him for IPC offences and the respondent in order to curtail the activities of the petitioner as well as the other accused who are similarly placed has implicated them in the false case. He would further submit that the fact remains that the case was registered by the respondent police on 15.09.2020, whereas, the petitioner got married on 16.09.2020 and if the petitioner had actually involved in the offence, he would not have celebrated his marriage on 16.09.2020. Later, in one of the pending previous case, the petitioner did not appear before the Court and a Non-Bailable Warrant came to be issued in S.C.No.306 of 2021 and the petitioner voluntarily surrendered himself before the learned Principal District Court, Madurai on 08.11.2021 and even during such time, the respondent did not take steps to formally arrest the petitioner in the present case. In the meanwhile, the respondent had also completed the investigation and filed the final report and the petitioner was shown as absconding accused and Non-Bailable Warrant came to be issued against the petitioner. He would further submit that except the confession statement of the arrested co-accused, the prosecution has not produced any material or evidence to connect the petitioner with the crime and that there is no recovery from the petitioner and apart from that there is no evidence to show that the petitioner was present at the scene of occurrence and thereby, he would seek for bail.

4.The respondent has filed a detailed counter affidavit before this Court.

5.The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner along with the other accused was standing in a suspicious manner near a house in 50ft road and on seeing the police, they ran away and one among the persons, namely, Pradeep @ Pragadeeswaran/A1 was caught with the white colour gunny bag and other persons who were found along with him segregating the contraband had ran away. He would further submit that the petitioner is one among the person who had run away. The



petitioner is a member of a gang and he has ten previous cases registered by the respondent police.

6. At this juncture, the learned counsel for the petitioner would submit that the petitioner has no previous case registered against him under the NDPS Act and the similarly placed accused have been granted bail by this Court and he would furnish the following details:-

A12-Sathish @ Kutti Sathish	CrI.O.P. (MD) No.9376 of 2021	02.11.2021
A4-Kasi @ Kasirajan	CrI.O.P. (MD) No.12442 of 2021	23.12.2021
A10-Vincent Selvaraj	CrI.O.P. (MD) No.2882 of 2022	22.02.2022
A5-Ovayan Balamurali	CrI.O.P. (MD) No.3766 of 2022	03.03.2022
A14-Manikandan	CrI.O.P. (MD) No.19818 of 2022	17.11.2022
A2-Kannan and A3-Sudhakaran	CrI.O.P. (MD) Nos.3947 and 3949	10.03.2022

7. Heard. Perused the materials available on record including the First Information Report.

8. Perusal of the records shows that the petitioner has been implicated based on the confession statement recorded from the co-accused. The incident is alleged to have taken place on 15.09.2020 and the petitioner's marriage was solemnized on the next day. Thereafter, the petitioner had voluntarily surrendered pursuant to a Non-Bailable Warrant issued in S.C.No.306 of 2021 before the learned Principal District Court, Madurai and even while he was in custody, the respondent had not taken any steps to formally arrest the petitioner. Now the investigation has been completed and the charge sheet has already been filed and the case has been taken up for trial in C.C.No.120 of 2021 before the learned II Additional Special Court for NDPS Act Cases, Madurai. Other than the confession statement of the co-accused, the investigating agency has not collected any material to link the petitioner with the alleged occurrence or that he was having links with the other accused and that he was actually present in the spot. It is also pointed out that similarly placed accused, namely, A12, A4, A10, A5, A11, A2 and A3 have been granted bail by this Court and that the petitioner has not involved in any case registered under the NDPS Act. This Court is of the opinion that the petitioner has satisfied the twin conditions as required under Section 37 of NDPS Act for grant of bail.



9. In view of the above, this court is inclined to grant 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.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned II Additional Special Court for NDPS Act Cases, Madurai and on further conditions that:

[b] the sureties shall affix their photographs 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.

[c] the petitioner shall report before the concerned Court daily at 10.30 A.M., on all working days until further orders;

[d] the petitioner shall not commit any offences of similar nature.

[e] the petitioner shall not abscond either during investigation or trial.

[f] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[g] 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].

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

sd/-

06/02/2023

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09/02/2023

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

SJI

TO

1 THE II ADDITIONAL SPECIAL JUDGE FOR NDPS ACT CASES, MADURAI.

2 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.



3 THE INSPECTOR OF POLICE, KODAL PUDUR P.S.MADURAI CITY,
MADURAI DISTRICT.

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

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ORDER

IN

CRL OP(MD) No.22454 of 2022

Date :06/02/2023

RS/VR/SAR.(09.02.2023) 5P-5C