



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2023

PRESENT

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

CRL.O.P(MD)No.22942 of 2022

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1.Vijayendran
2.Jeyakumar

... Petitioners/Accused No.16 & 19

-VS-

The State rep.by
The State represented by
The Inspector of Police,
Dhadikombu Police Station,
Dindiugl 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.

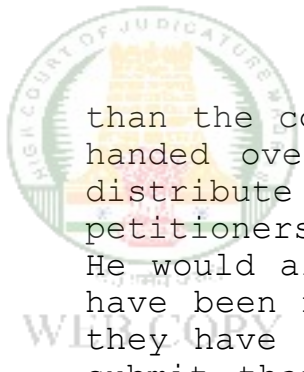
For Petitioners	: Mr.K.P.NARAYANAKUMAR, Advocate
For Respondent	: Mr.T.SENTHIL KUMAR Additional Public Prosecutor

O R D E R

The petitioners, who were arrested and remanded to judicial custody on 05.08.2022 for the offences punishable under Sections 8(c), 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 the 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 petitioners with the other main accused came to light.

3.The learned Counsel appearing for the petitioners would submit that the petitioners are innocents and a false complaint has been given. He would further submit that the petitioners are respectively the father and son and they are arrayed as A16 and A19. He would further submit that there is absolutely no recovery of any contraband from the petitioners. He would also submit that other



than the confession of A15, Chalapaka Lokeswara Prasad, that he had handed over 34 kgs of ganja to A1 and A2 and had asked them to distribute 2 kgs of ganja each to six persons including the petitioners, there is no other materials as against the petitioners. He would also submit that if it all A15 had confessed so, it would have been mentioned by Vairvan, A1 and Karthick Balu, A6, however, they have not spoken anything about the petitioners. He would also submit that the petitioners do not have any previous case against them and he would submit that the petitioners are in custody for the past 200 days. He would also reiterate that no contraband has been recovered from the petitioners and thereby, he would seek for bail.

4.The learned Additional Public Prosecutor appearing for the respondent would submit that there are totally 20 accused in this case and the petitioners are respectively the father and son, who have been arrayed as A16 and A19. He would also submit that based on the confession recorded from A1, Vairavan and A2, Karthick Balu, A15, Chalapaka Lokeswara Prasad, was arrested and A15 has confessed that he had handed over 34 kgs of ganja to Vairavan/A1 and Karthick Balu, A2 and had asked them to distribute the 2 kg bundle of ganja each to Sheik Fareed, Dhivya, Sheik Mohamed Rafeek, Chandilyan, Vijayendran and Jeyakumar and asked them to retain the balance ganja. He would also submit that based on the confession, the petitioners were arrested and the second petitioner, Jeyakumar has confessed that he was in constant touch with the other accused and they used to receive ganja from Andrapradesh and the petitioners have purchased an Innova car bearing Reg.No.KL-21-C786 from Kerala and that they have been transporting the ganja in the said Innova car. He would also submit that there are also telephonic conversation between the second petitioner, Jeyakumar and A12, Divya, who is the concubine of A15 and thereby, he would object for grant of bail.

5.In reply, the learned Counsel for the petitioners would submit that as far as the second petitioner, Jeyakumar is concerned, the respondent has stated that he has confessed about the transaction and that there are also telephonic conversation between the second petitioner and A12, Dhiviya, who is alleged to be the concubine of A15. However, as far as the first petitioner is concerned, he is a senior citizen, aged 65 years and there is no recovery or no confession is stated to have been given by him. In such circumstances, there is absolutely no materials to connect him with the crime. He would also submit that the petitioners are in custody for more than 200 days and thereby, he would seek for bail to the petitioners.

6.Heard. Perused the materials available on record.

7.Taking into consideration of the facts and submissions made by the learned Counsels, it is now stated by the prosecution that there are no materials to connect the second petitioner Jeyakumar, to



the crime. However, in respect of the first petitioner, the recovery from him or confession is recorded and he is in custody for 200 days, this Court is of the opinion that the first petitioner has satisfied the condition as required under Section 37 of NDPS Act and he is entitled to grant of bail.

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8. In view of the above, this petition is dismissed as against the second petitioner, Jeyakumar and this Court is inclined to grant bail to the first petitioner, Vijayendran, with the following conditions:

(a) Accordingly, the first 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 learned Special Judge, Special Court for EC & 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 learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) the first petitioner shall report before the respondent police daily at 10.30 a.m., until further orders;

(d) the first petitioner shall not commit any offences of similar nature;

(e) the first petitioner shall not abscond either during investigation or trial;

(f) the first 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 first petitioner in accordance with law as if the conditions have been imposed and the first 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 abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-

21/02/2023

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22/02/2023

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



CMR

TO

1 THE SPECIAL JUDGE,
SPECIAL COURT FOR EC & NDPS ACT CASES, MADURAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, DINDIGUL.

3 THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE,
DHADIKOMBU POLICE STATION,
DINDIGUL DISTRICT.

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

+1. CC to M/S.NARAYANAKUMAR K.P. Advocate SR.No.2590

ORDER

IN

CRL OP (MD) No.22942 of 2022
Date :21/02/2023

SA/SBN/SAR. /22.02.2023/4P/6C