



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
( Criminal Jurisdiction )  
Reserved on: 10.02.2023  
Pronounced on: 01.03.2023

WEB COPY

PRESENT

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

CRL OP(MD) . No.6 of 2023

Prasanna

... Petitioner/Accused No.2

**Vs**

The State rep.by  
The Inspector of Police,  
Pattiveeranpatti Police Station,  
Pattiveeranpatti,  
Dindigul District.  
Crime No.288 of 2022.

... Respondent/Complainant

For Petitioner : Mr.LAWRANCE J,  
Advocate.

For Respondent : Mr.T.SENTHIL KUMAR,  
Additional Public Prosecutor

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

**PRAYER :-** For Bail in Crime No.288 of 2022 on the file of the Respondent Police.

**ORDER :** The Court made the following order :-

The petitioner /A2 who was arrested and remanded to judicial custody on 15.11.2022 for the offences under sections 8(c)and 20(b) (ii)(C) and 25 of NDPS Act in Crime No.288 of 2022 on the file of the respondent police seeks bail.

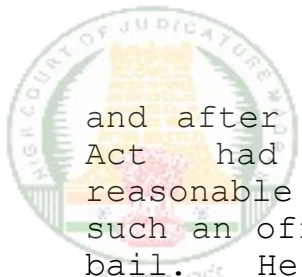
2. The case of the prosecution is that on 02.05.2021 at about 04.00 hrs based on secret information the respondent police conducted surveillance at Chittarevu Panchayat Board office, Pattiveeranpatti and at that time the respondent police intercepted a two wheeler bearing Reg.No. TN 57 BJ8413(Bajaj CD 100) in which three persons had travelled and on seeing the police three persons from the vehicle tried to escape from the scene of occurrence leaving the vehicle and a plastic gunny bag. The respondent police apprehended A1/ Navaneethan but two other persons escaped from the scene of occurrence. During enquiry the respondent police came to know that the escaped persons were A2/Prasanna and A3/Rajesh and on search the respondent police found 22kgs of kanja in the above said



plastic gunny bag. After completing the formalities under NDPS Act, the respondent police arrested A1 and seized 22kgs of kanja and the two wheeler.

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 A2 and A3 have earlier filed petition for anticipatory bail and the same was dismissed by this Court on 23.11.2021 in Crl.O.P(MD) No.18187 of 2021 and later they were arrested. He would further submit that the petitioner is arrayed as A2 in this case and he and yet another accused A3 one Rajesh have been implicated as accused only based on the confession recorded from A1 who was arrested with the contraband and further as far as A2 and A3 are concerned there is absolutely no recovery from them. He would further submit that the petitioner is a farmer possessing agricultural lands in Ayyampalayam Taluk, Authoor Taluk, Dindigul District and he is also engaged in the construction work on contract basis, for which the petitioner possess tractor and trailer. Whiles, one Sub Inspector of police, attached to the respondent police had illegally taken the said tractor to the police station on the guise that the said vehicle was involved in illegal transportation of river sand without permission from authorities and subsequently on production of all papers the tractor was released and due to which there was mis understanding between the petitioner and the said Sub Inspector of police, whiles, the respondent police secured the first accused in this case namely Navaneethan who happens to be relative of the petitioner and on the instance of the Sub Inspector of police the petitioner has been roped in this case. He would further submit that confession statement of the co-accused cannot be relied upon the other accused. He would further submit that A3 in this case who is implicated based on the confession of the accused and A1 and who is similarly placed as that the petitioner was released on bail by this Court in Crl.O.P (MD) No.6304 of 2022 dated 05.05.2022 on the ground that the except the confession of the co-accused the prosecution has not given any material or evidence to link the petitioner with the crime, hence the petitioner is also entitled for bail on parity. He would further submit that the investigation has been completed and the final report has been filed before the Special Court of NDPS Act, Madurai and the same was taken on file in C.C. No. 563 of 2021 and it is pending trial. He would also submit that there is no independent witness in this case and the complaint has been lodged only by the police officials. He would further submit that the petitioner is in judicial custody from 15.11.2022, hence he seeks bail.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner along with other accused were found in illegal possession of 22kgs of kanja. He would also submit that the petitioner was present in the scene of occurrence along with the contraband and on seeing the police he escaped from the scene of occurrence. The respondent police on prior intimation



and after completing with the formalities required under NDPS Act had arrested the petitioner. In this case there is no reasonable grounds to believe that the petitioner is not guilty of such an offence and he is not likely to commit any offence while on bail. He would further submit that the investigation has been completed and the final report has been filed before the Special Court of NDPS Act, Madurai and the same was taken on file in C.C. No. 563 of 2021 and the case stands posted for cross examination of PWs by A2.

5. Heard. Perused the materials available on record.

6. Admittedly the petitioner/A2 and Rajesh/A3 have been implicated in this case based on the confession recorded from A1 and there is no recovery from the petitioner/A2 and A3. Further except the confession statement of A1, prosecution has neither produced nor shown any materials or evidence to link the petitioner with the crime in question. This court had earlier considered the materials and granted bail to A3 who is similarly placed as that of the petitioner in CrI.O.P(MD) No.6304 of 2022 dated 05.05.2022. Further it is stated that the petitioner does not have any case registered against him under the NDPS Act

7. Considering the above facts and circumstances and also the fact that the petitioner is not having any previous case under the NDPS Act, this Court is satisfied that there are reasonable grounds for believing that the petitioner is not guilty of such offence and that he is not likely to commit any such offence, after coming out on bail, as contemplated under Section 37 of NDPS Act and that A3 who has been similarly placed as that of the petitioner has been granted bail by this court in CrI.O.P(MD) No.6304 of 2022 dated 05.05.2022 therefore, 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.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Special Judge for Essential Commodities and 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 trial Court on all hearing dates at 10.30 am., until further orders.

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



[e] the petitioner shall not abscond during trial.  
[f] the petitioner shall not tamper with evidence or witness either during 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/-

01/03/2023

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01/03/2023

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

AAV

**TO**

- 1 THE SPECIAL JUDGE  
FOR ESSENTIAL COMMODITIES AND NDPS ACT CASES,  
MADURAI.
- 2 THE OFFICER INCHARGE, SUB JAIL, DINDIGUL.
- 3 THE INSPECTOR OF POLICE,  
PATTIVEERANPATTI POLICE STATION,  
PATTIVEERANPATTI, DINDIGUL DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT,  
MADURAI.

+1. CC to M/S.LAWRANCE J Advocate SR.No.3084

**ORDER**

**IN**

CRL OP(MD) No.6 of 2023

Date :01/03/2023

SA/SSS/SAR. /01.03.2023/4P/6C