



CRL OP(MD). No.2280 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 14/02/2024

PRESENT

The Hon`ble Mr.Justice **M.DHANDAPANI**

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Safiulla @ Safik Ali,
S/o.Syed Mohammed,
4-C, Aiysha Street,
Elayankudi,
Sivagangai District.

... Petitioner/A13

Vs

The Inspector of Police,
Dindigul Taluk Police Station,
Dindigul District,
Crime No.625/2022.

... Respondent/Complainant

For Petitioner : Mr.N.Sekar,
Advocate.

For Respondent : Mr.B.Nambi Selvan,
Additional Public Prosecutor

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

PRAYER :-

To enlarge the petitioner on bail in connection with the case in C.C.No.972 of 2023 on the file of the Principal Special Court for EC & NDPS Act Cases, Madurai, in Crime No.625 of 2022, on the file of the respondent police.

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ORDER : The Court made the following order :-

The petitioner/A13, who is facing trial for the offences punishable under Sections 8(c) r/w 20(b)(ii)(c), 29(1) and 25 of NDPS Act, in C.C.No.972 of 2023 on the file of the Principal Special Court for EC & NDPS Act Cases, Madurai, in Crime No.625 of 2022, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 17.10.2022 based on the secret information, the respondent police intercepted two vehicles bearing Reg.No.TN-BF-7616 Innova Car and TN-22-DF-3510 Mahindra XUV Car, in which, A1 to A4 were travelling along with contraband weighing 440 kgs of Ganja. When the police party stopped the car, the accused persons were tried to escape from the scene of occurrence and the police party caught hold the accused and they conducted search on the cars. In search, it was found that the accused persons were in illegal possession of 440kgs of Ganja. Based on their confession, the petitioner was implicated as an accused in this case. Hence, the case.



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3.The learned counsel appearing for the petitioner would submit that the petitioner is arrayed as A12 and he was not available in the scene of occurrence and the recovery was made only from A1 to A3 and based on their confession, other accused persons were implicated in this case. Even as per the prosecution, the other accused persons purchased the contraband from Andhrapradesh and they illegally transported two vehicles belonged to A5 and A6 and the same was handed over to the petitioner. However, except this case, no other case is pending against him and the petitioner is not a habitual offender and intentionally, the respondent police implicated the petitioner in the present case. He would further submit that A4, A6 and A13 were already released on bail by this Court. Hence, he prays for grant of bail to the petitioner.

4.The learned Additional Public Prosecutor would submit that though A4, A6 and A13 were already released on bail by this Court on the ground that the recovery was not made from them, the recovery was made only from A1 to A3. However, the petitioner is the master mind behind the entire episode and he instructed the other accused persons to transport Ganja from Andrapradesh, in order to transport the same to Sri



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Lanka. The petitioner is a native of Ramanathapuram, which is adjacent to the coastal line of Sri Lanka and no previous case is pending against him and the quantity of the Ganja involved in this case is a commercial quantity. Hence, he strongly opposed to grant bail to the petitioner.

5. Admittedly, the contraband was not recovered from the petitioner and as per the charge sheet, the petitioner was arrayed as A12 in this case and the investigation has been completed. It is an equally undisputed fact that the recovery was made only from A1 to A3 and A4, A6 and A13 were already released on bail by this Court.

6. Considering the above facts and circumstances of the case and also considering the facts that the petitioner is satisfied the twin condition as required under Section 37 of the NDPS Act and he is in judicial custody since 20.07.2023, this court is inclined to grant bail to the petitioner with certain conditions:

7. Accordingly, this Criminal Original Petition is ordered and the petitioner is ordered to be released on bail on his executing a bond for a



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sum of Rs.10,000/-(Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Principal Special Court for EC & NDPS Act Cases, Madurai, and on further conditions that:

(a)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;

(b) the petitioner is directed to appear before the concerned Court each and every hearing dates without fail;

(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



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in *P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]*;
and;

(f)if the accused thereafter absconds, a fresh FIR can
be registered under Section 229-A IPC.

(M D I J)
14.02.2024

SJI

TO

1. The Principal Special Court for EC & NDPS Act Cases, Madurai.
2. Do-Through The Chief Judicial Magistrate,
Dindugal District.
3. The Superintendent, Dindigul District Jail.
4. The Inspector of Police,
Dindigul Taluk Police Station,
Dindigul District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI,J

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ORDER
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