



CRL OP(MD). No.1958 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 09/02/2024

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD). No.1958 of 2024

C.Alwin

... Petitioner/ Accused No.4

Vs

The State rep by its
The Inspector of Police,
NIBCID,
Thoothukudi District.
(Crime No.3 of 2022).

... Respondent/Complainant

For Petitioner : Mr.MUTHUCHHARAN SUNDRESH, Advocate,
for Mr.K.PRABAKARAN, Advocate

For Respondent : B.NAMBI SELVAN,
Additional Public Prosecutor

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

PRAYER :- To enlarge the petitioner on bail in respect of in C.C No.56 of 2022 on the file of the Principal Special Court for Trial of Narcotic Drugs and Psychotropic Substances Act Cases, Madurai, pending trial.

ORDER : The Court made the following order :-

The petitioner/A4, who is facing trial for the offences punishable under Sections 8(c) r/w 20(b)(ii)(C), 25 of NDPS Act, 1985 in C.C No.56 of 2022 on the file of

the Principal Special Court for Trial of Narcotic Drugs and Psychotropic Substances

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Act Cases, Madurai, in Crime No.3 of 2022, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on secret information, on 28.07.2021, at about 10.00 p.m, when the respondent police and his team went to the spot and found 79 kg of Ganja in the back portion of the Car bearing Reg.No.TN-09-CB-8929. On investigation, A1 & A2 were arrested. Based on their confession, A3 and the petitioner/A4 were also implicated in this case and also arrested.

3.The learned counsel for the petitioner would submit that the petitioner is an innocent person. He has not committed any offence as alleged by the prosecution. He would further submit that this is the third bail petition. Earlier petition filed by the petitioner in Crl.OP(MD)No.21724 of 2023 was dismissed by this Court on 03.01.2024. Admittedly, the contraband seized in this case is commercial quantity. As per the confession of A1 & A2, the petitioner engaged A1 & A2 for illegal transportation of Ganja. Except this allegation, no other allegation is made against the petitioner and no contraband was seized from the petitioner. Further, the main accused namely, A1 & A2 were granted bail by this Court in Crl.OP(MD)No.3424 of 2022 on 13.04.2022 and A3 was also granted bail by this Court in Crl.OP(MD)No.6147 of 2022 on 14.02.2023. Further, when the petitioner is in custody, the Law Enforcing Agency conducted investigation and filed a final report before the concerned Court by



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deleting the name of the A5. Hence, he prays for grant bail to the petitioner.

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4.The learned Additional Public Prosecutor would submit that A1, A2 & A3 were granted bail by this Court. However, the Law Enforcing Agency did not take any proper steps to file cancellation of bail petition.

5.Initially the petitioner is arrayed as accused as if he hired the vehicle from A5 and engaged A1 & A2 for illegal transportation of Ganja. Subsequently, the Charge Sheet was filed. In the Charge Sheet, A5 name was deleted as he has been shown as witness. Earlier two petitions were dismissed by this Court on the ground that the petitioner is involved in the illegal transportation of ganja. However, the contraband was seized from A1 & A2. They were already released on bail by this Court in Crl.OP (MD)No.3424 of 2022 on 13.04.2022. A3 was also released on bail by this Court in Crl.OP(MD)No.6147 of 2022 on 14.02.2023. The same were not brought to the notice of this Court.

6.In view of the above change of circumstances, 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 sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the learned 1st Additional District Judge for NDPS Act Cases at Madurai, and on



further conditions that:

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(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 Principal Special Court for Trial of Narcotic Drugs and Psychotropic Substances Act Cases, Madurai, on each and every hearing date, failing which, the bail granted to the petitioner by this Court shall stand automatically vacated.

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



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(f)if the accused thereafter absconds, a fresh FIR can be registered

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under Section 229-A IPC.

sd/-
09/02/2024

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/02/2024
Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.

DSS
TO

1 THE PRINCIPAL SPECIAL JUDGE
FOR TRIAL OF NARCOTIC DRUGS AND PSYCHOTROPIC
SUBSTANCES ACT CASES, MADURAI.

2 THE 1ST ADDITIONAL DISTRICT
JUDGE FOR NDPS ACT CASES AT MADURAI.

3 THE INSPECTOR OF POLICE,
NIBCID,
THOOTHUKUDI DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

+1 cc to Mr.K.PRABAKARAN, Advocate, SR.No.1690 dt.12/02/2024

ORDER IN
CRL OP(MD) No.1958 of 2024
Date :09/02/2024

SA/SAR. /09.02.2024/5P/7C

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