



CRL OP(MD). No.3056 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 27/02/2024

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

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Kompaiya

... Petitioner/ Accused No.7

Vs

State represented by
The Inspector of Police,
A.Mukkulam Police Station,
Virudhunagar District.
Crime No.19 of 2023.

... Respondent/ Complainant

For Petitioner : Mr.M.Jegadeesh Pandian,
Advocate.

For Respondent : Mr.B.Nambiselvan,
Additional Public Prosecutor.

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

PRAYER :-

For Bail in Crime No.19 of 2023 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/ Accused No.7, who was arrested and remanded to judicial custody
on 17.02.2023 for the offences punishable under Sections 8(C), 20(b)(ii)(C), 25, 27A, 29



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seeks bail.

(1) of NDPS Act, 1985 in Crime No.19 of 2023, on the file of the respondent Police,

2.The case of the prosecution is that on 17.02.2023, the defacto complainant and the other Police Officials attached with the respondent Police got a secret information in respect of selling ganja near Nethiya Iruppu and the officials visited the occurrence place. At that time, Maruti Swift Car was found in a suspicious manner and after seeing the Police party, the accused persons tried to escape from the car, but the respondent Police secured six accused persons and recovered 26.235 kgm of Ganja. Hence, the present case was registered.

3.The learned counsel appearing for the petitioner would submit that the petitioner did not commit any allegation as alleged by the prosecution and the petitioner is A7. Based on the confession statement of co-accused, he was falsely implicated in this case. Already two bail applications filed by the petitioner were dismissed by this Court. The co-accused was enlarged on bail by this Court in CrI.O.P (MD) No.2462 of 2024, dated 16.02.2024. The Ganja seized from the petitioner is not a commercial quantity. Further, except this case, no case is pending against the petitioner. He would further submit that the petitioner is in judicial custody from



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17.02.2023. Hence, he prays for grant bail to the petitioner.

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4.The learned Additional Public Prosecutor appearing for the respondent would submit that the Ganja recovered from the accused Nos.1 to 6 is the commercial quantity, though 2.050 grams of Ganja recovered from this petitioner, the recovery from the other accused persons is commercial quantity. Further, the first accused confessed that A1 to A6 sold ganja to A7 and A8 for selling purpose. He would further submit that no previous case is pending against the petitioner. Hence, he prays for dismissal of bail application.

5.Heard. Perused the materials available on record.

6.Admittedly, the petitioner is A7 and the huge quantity of Ganja was seized only from A1 to A6 and based on their confession, the petitioner/A7 was implicated and the seized quantity from the petitioner is not a commercial quantity. Considering the facts and circumstances of the case and considering the fact that no previous case is pending against the petitioner and the twin conditions required under Section 37 of NPDS Act is not applicable to this case in respect of this petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.



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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 II Additional District Judge for EC and NDPS Act Cases, Pudukottai, 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 daily at 10.30 a.m., till disposal of the trial;

(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) after the seizure procedure is over, the concerned Magistrate and the respondent Police are directed to comply with the guidelines enumerated under section 52(A) of NDPS Act and as per the guidelines issued by the Hon'ble Supreme Court of India in the case of Union of India Vs. Mohanlal and Another ((2016) 3 SCC 379).



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(f)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;

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

sd/-
27/02/2024

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27/02/2024
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Indu

TO

- 1.The II Additional District Judge for EC and NDPS Act Cases,
Pudukkottai.
- 2.The Superintendent,
Central Prison, Madurai.
- 3.The Inspector of Police,
A.Mukkulam Police Station,
Virudhunagar.



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4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.M.JEGADEESH PANDIAN, Advocate (SR-2428[I] dated 27/02/2024)

ORDER
IN
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Date :27/02/2024

SSA//SAR-(27.02.2024) 6P 6C

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