



CRL OP(MD). No.3296 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 01.03.2024

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

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Ajith Kumar

... Petitioner/ Accused No.6

versus

The State rep. by its
The Inspector of Police,
Mudukulathur Police Station,
Ramanathapuram District.
Crime No.613 of 2020

...Respondent/ Complainant

For Petitioner : Mr.PR.Boommeerajan
Advocate

For Respondent : Mr.S.Ravi,
Additional Public Prosecutor

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory bail in Crime No.613 of 2020 on the file of the Respondent Police



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ORDER : The Court made the following order :-

The petitioner/A6, apprehending arrest at the hands of the respondent Police for the offence punishable under Section 8(c) r/w. 20(b)(ii)(c), 25, 27A and 29(1) of NDPS Act and Section 20 of Arms Act, in Crime No.613 of 2020, filed this petition seeking anticipatory bail.

2. Totally, there are nine (9) accused in this case and this petitioner is arrayed as A6. The respondent Police, on 04.12.2020, has intercepted a motorbike bearing Reg.No.TN59 AK 5099 driven by A2 and recovered 1.5 kg. of ganja. Based on the confession statement of A2, the respondent Police has also recovered 23.500 kgs. of ganja from the house of A1 and arrested A1, A7, A8 and A9. The petitioner said to have absconded from the house of A1. After completion of the investigation, the respondent Police has filed a charge sheet before the Additional District and Sessions Court for NDPS Act cases, Pudukkottai and the same was taken on file as C.C.No.28 of 2021.

3. The petitioner has already moved two applications seeking anticipatory bail

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before this Court. This Court, considering the submission of the petitioner that he is an innocent person and he has been implicated only based on the confession statement of A2, this Court, by order dated 24.09.2021, in Crl.O.P.(MD)No.13359 of 2021, has granted interim anticipatory bail enabling the petitioner to appear before the respondent Police for interrogation. After getting the order of interim protection from this Court, the petitioner has not appeared before the respondent Police for interrogation. Considering the conduct of the petitioner in not appearing before the respondent Police for interrogation, this Court, by order dated 27.10.2021 dismissed the earlier application in Crl.O.P.(MD)No.13359 of 2021.

4. Now, the petitioner has moved this 3rd anticipatory bail application that the trial Court has split up the case and after the trial, acquitted A1, A2, A5, A7 and A9, by Judgment dated 16.11.2022. The petitioner is added an accused based on the confession statement of A2, who has been acquitted from the case by the trial Court. Therefore, the petitioner seeks for anticipatory bail.

5. The learned Additional Public Prosecutor, by referring the dismissal order of earlier bail application, submits that the petitioner, who got the order of interim protection, has not appeared before the respondent Police and not co-operated for the



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interrogation. Considering the conduct of the petitioner, the earlier anticipatory bail application was dismissed by order dated 27.10.2021. Since the petitioner has not cooperated for the interrogation and he is capable of absconding for the past two years, he is not entitled for anticipatory bail.

6. This Court considered the rival submissions made.

7. In this case, there are totally nine accused and the petitioner is arrayed as A6. The respondent Police has recovered 23.500 kgs. of ganja from the house of A1 and also arrested three more accused from the house of A1. However, the petitioner said to have absconded from A1's house. The petitioner has been implicated as accused only based on the confession statement of A2. Since some of the accused have absconded, the trial Court split up the case and after the trial, acquitted A1, A2, A5, A7 and A9, by Judgment dated 16.11.2022.

8. The petitioner has already filed anticipatory bail application in Crl.O.P.(MD) No.13359 of 2021. This Court, by order dated 24.09.2021, granted interim anticipatory bail enabling the petitioner to appear before the respondent Police for interrogation. However, the petitioner has not appeared for interrogation. Therefore, this Court, by



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order dated 27.10.2021, dismissed the earlier anticipatory petition in CrI.O.P.(MD) No.13359 of 2021. It appears that after the dismissal of the earlier anticipatory bail petition, the respondent Police has not secured this petitioner for the past two years.

9. Since the respondent Police is not capable of securing the accused for the past two years in order to place him before the trial Court and also considering the fact that based on the confession statement of A2, the petitioner was added as accused in this case and A1 and A2 have been acquitted by the trial Court in C.C.No.28 of 2021, this Court is inclined to grant anticipatory bail to the petitioner.

10. Accordingly, this Criminal Original Petition is allowed. The petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Additional District and Sessions Judge/Presiding Officer, Special Court for EC and NDPS Act cases, Pudukkottai, on condition that the petitioner shall execute a bond for a sum of Rs.1,00,000/- (Rupees one lakh only) with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions that:



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[a]the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity;

[b]the petitioner shall report before respondent police daily at 10.30 a.m. and 6.00 p.m. until further orders;

[c]the petitioner shall not tamper with the 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 is 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 under Section 229-A IPC.

sd/-
01/03/2024

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Sub-Assistant Registrar (CS-I / II/ III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

OGY

TO

1. The Additional District and Sessions Judge/Presiding Officer,
Special Court for EC and NDPS Act cases, Pudukkottai,
2. The Inspector of Police,
Mudukulathur Police Station,
Ramanathapuram District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.PR BOOMEE RAJAN, Advocate (SR-2615[I] dated 01/03/2024)

ORDER
IN

CRL OP(MD) No.3296 of 2024
Date :01/03/2024

RK/VR (06/03/2024) 7P / 5C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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