



CRL OP(MD). No.4620 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 22/03/2024

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD). No.4620 of 2024

Thulasi

... Petitioner/1st Accused

Vs

The Inspector of Police,
Thalamuthunagar Police Station,
Thoothukudi District.
In Crime No.129 of 2022.

... Respondent/Complainant

For Petitioner : Mr.R.Anand, 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.129 of 2022 on the file of the respondent Police.

ORDER : The Court made the following order :-



CRL OP(MD). No.4620 of 2024

The petitioner / 1st Accused, who was arrested and remanded to judicial custody on 16.02.2024 for the offence punishable under Section 8(C) r/w. 20(b)(ii)(C), 25, 29(1) of NDPS Act, in Crime No.129 of 2022 on the file of the respondent Police, seeks bail.

2. The case of the prosecution that on 31.03.2022, during vehicle checkup, the defacto complainant intercepted a vehicle, in which, four persons were there with Ganja in various quantities from 5kgs to 7 kgs and the total quantity of Ganja recovered from the petitioner is 24kgs. Hence, the present complaint has been lodged, pursuant to which, FIR in Crime No.129 of 2022 was registered by the respondent Police and the petitioner was arrested and remanded to judicial custody. Thereafter, he was enlarged on bail by this Court in Crl.O.P(MD) No.10251 of 2022, on 17.08.2022. Subsequently, the Law Enforcing Authority, after completing the investigation, a Charge Sheet was filed before the concerned Court. Due to non-appearance of the petitioner, the trial Court issued Non Bailable Warrant, pursuant to which, the petitioner was arrested and remanded to judicial custody on 16.02.2024.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has not committed any such offence as alleged by the prosecution and he has been falsely implicated in this case. Initially,

the petitioner moved a bail application before the concerned Court and the same was



CRL OP(MD). No.4620 of 2024

dismissed. Subsequently, he moved another bail application before this Court. This Court granted bail to the petitioner in CrI.O.P(MD) No.10251 of 2022, dated 17.08.2022. After coming out on bail, the petitioner has regularly appeared before the concerned Court. However, due to ill health, he could not appear before the concerned Court, so Nonailable Warrant was issued against the petitioner and he was arrested and remanded to judicial custody on 16.02.2024. Hence, he prays for bail.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that if he is released on bail, he may abscond and there will be no progress in the trial. Earlier, the Special Court for trial of NDPS Act Cases, Madurai, dismissed the bail petition filed by the petitioner on the ground that the petitioner and other accused persons were arrested for joint possession of Ganja and it is a commercial quantity. There is bar for grant of bail to the petitioner as per Section 37 of NDPS Act. Further, one previous case is pending against the petitioner in similar nature, in which case, the contraband recovered from the petitioner is not commercial quantity. Further, in the bail petition filed by the co-accused in CrI.O.P(MD) No.16136 of 2022, this Court issued a direction to the concerned Court, vide order dated 14.10.2022, to complete the trial within a period of four months Hence, he vehemently objected to grant bail to the petitioner.



CRL OP(MD). No.4620 of 2024

5. Heard the learned counsel on either side.

6. Considering the facts and circumstances of the case and also considering the period of incarceration, 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 Principal Special Court for Trial of 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 trial Court 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;



CRL OP(MD). No.4620 of 2024

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(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;

(f) 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).

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

sd/-
22/03/2024

/ TRUE COPY /

22/03/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.



CRL OP(MD). No.4620 of 2024

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TO

- 1 THE PRINCIPAL SPECIAL JUDGE
FOR TRIAL OF NDPS ACT CASES, MADURAI.
- 2 THE INSPECTOR OF POLICE
THALAMUTHUNAGAR POLICE STATION,
THOOTHUKUDI DISTRICT.
- 3 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+2 CC to M/s.S.ASHOK, Advocate (SR-3573[I] dated 22/03/2024)

ORDER

IN

CRL OP(MD) No.4620 of 2024

Date :22/03/2024

PKP/22.03.2024/ 6P/ 7C

Madurai Bench of Madras High Court is issuing certified
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