



CRL OP(MD). No.9346 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 13/08/2024

PRESENT

The Hon`ble Mr.Justice D.BHARATHA CHAKRAVARTHY

CRL OP(MD). No.9346 of 2024

S.Ajith

... Petitioner/ Accused No.1

Vs

The Inspector of Police,
Sedapatti Police Station,
Madurai District.

Crime No.123/2022..

... Respondent/ Complainant

For Petitioner : Mr.K.Dinesh,
Advocate.

For Respondent : Mr.T.Senthilkumar
Additional Public Prosecutor (Crl.Side)

PETITION FOR ANTICIPATORY BAIL Under Sec.482 of BNSS

PRAYER :-

To enlarge the petitioner on Anticipatory Bail in the event of his arrest in CC No.935/2023 on the file of the District and Sessions Court for EC and NDPS Act Cases, Madurai.



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WJMSOPH
ORDER : The Court made the following order :-

The petitioner/accused, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 8(C), 20(b)(2)(ii)(C), 25, 29(1) of NDPS Act in Crime.No.123 of 2022, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner herein and other accused have illegally found is possession 24 Kgs of Ganja. Hence, the case.

3. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent Police and perused the materials available on record.

4. This case involves transportation of Ganja, which is a commercial quantity. Though the anticipatory bail cannot be given in these kind of offences, it can be seen that the charge sheet has already been filed without even the arrest of the petitioner showing him as an absconding accused. The learned counsel for the petitioner argues that at all times material, the petitioner was continuously reporting for duty in his unit in the military service. He is working as a Solider- Sepoy and all



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along he has been posted at Chennai Battalion only. It has to be seen that originally the petitioner was not arrested before the filing of charge sheet. After showing the accused as of absconding, charge sheet was filed. Even then, the NBW was not executed. It is strange that the matter was also not brought to the notice of the trial court at the time of splitting up that the petitioner is performing duty in the Military service. Therefore, the case was split up and the trial was conducted in respect of the other accused and A1 and A2 were convicted, while some of the accused were acquitted. It is at this stage, the case against this petitioner is pending and the anticipatory bail petition is now filed. Even though for the serious allegations, normally the anticipatory bail cannot be granted, only with a view of Progress of the pending case, especially when pending investigation and even pending trial of the other accused, the petitioner was not apprehended, even though he was reporting for duty before the Military, I am inclined to enlarge the petitioner on anticipatory bail. However, on condition that without any excuse as to the call of duty, etc., he has to attend all the hearings before the trial court. Considering the fact that the case is pending from the year 2022 and already the trial was over in respect of the other accused, the trial court is requested to take up the trial for early disposal and dispose of the same as expeditiously as possible, in any event, not later than three months from the date of receipt of a copy of this order.

<https://www.mhc.tn.gov.in/judis>



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5. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned District and Sessions Court for EC and NPDS Act Cases, Madurai on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further conditions that:

(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 Aadhar card or Bank pass Book to ensure their identity;

(b) the petitioner shall appear before the trial Court on each and every hearing dates without fail;

(c) the petitioner shall not tamper with evidence or witness either during investigation or trial;



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(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;

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

Sd/-

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

TRP

TO

1. The District and Sessions Judge for EC and NPDS Act Cases, Madurai



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2. The Inspector of Police,
Sedapatti Police Station,
Madurai District.

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

+1 CC to M/s.K.DINESH, Advocate (SR-9938[I] dated 14/08/2024)

ORDER

IN

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Date : 13/08/2024

RD/SKN (22/08/2024) 6P / 5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.