



CRL OP(MD). No.11628 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 14/08/2024

PRESENT

The Hon`ble Mr.Justice D.BHARATHA CHAKRAVARTHY

CRL OP(MD). No.11628 of 2024

Shameel Ahamad

... Petitioner/ Accused No.6

Vs

The Inspector of Police,
Vikkaramangalam Police Station,
Madurai District.
Crime No. 136/2023..

... Respondent/ Complainant

For Petitioner :Mr. D.Shanmugaraja Sethupathi,
Advocate.

For Respondent : Mr.R.M.Anbunithi,
Additional Public Prosecutor

PETITION FOR BAIL Under Sec.483 of BNSS

PRAYER :-

For Bail in Crime No. 136 of 2024 on the file of the Respondent Police.



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ORDER : The Court made the following order :-

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The petitioner/A6, who was arrested and remanded to judicial custody on 09.09.2023 for the offences punishable under Sections 8(c), 20(b)(ii)(C) & 25 of Narcotic Drugs & Psychotropic Substance Act, 1985 and Section 201 of IPC, in Crime No.136 of 2023 on the file of the respondent police, seeks bail.

2. The case of the petitioner is that the petitioner and the other accused were found in possession of 215 kg of ganja. Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner is languishing in prison from 09.09.2023 and majority of the accused are absconding. There is no imminent possibility of the trial being conducted. In such an event, when there is no material against the petitioner except the confession of the co-cussed, he would rely upon the judgment of the Hon'ble Supreme Court of India in **Rabi Prakash Vs the State of Odisha** reported in **2023 LiveLaw(SC) 533 (Special Leave to Appeal (Crl.) No.4169/2023)** to contend that the right guaranteed under Article 21 of the Constitution of India for a speedy trial would override the requirements of Section 37 of NDPS Act and if the incarceration goes beyond the limit, the court



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should release the petitioner on bail pending the trial.

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4.Per contra, the learned Additional Public Prosecutor would submit that, apart from the confession of the co-accused, the images of the large vehicle crossing the check post were also taken. He would further submit that the petitioner has also spoken to A8 and A9 and CDR particulars have been obtained in the investigation.

5.He would further submit that in the vehicle, it was made-up as if they are transporting fish in the ice tank and there was no fish or ice in the inside of the tank but only 215 kilograms of ganja. The other accused are all in Andhra Pradesh, Sri Lanka etc., and therefore, Non Bailable Warrant is pending.

6. I have considered the rival submissions made on either side and the materials available on records.

7.There can be no two opinions as to the proposition argued by the learned counsel for the petitioner that if the incarceration stretches way too long, then even if there is *prima facie* material, by considering the right to speedy trial guaranteed under Article 21 of the Constitution of India, the petitioner has to be enlarged on

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bail. In this case, ten months are over as of now. Therefore, it cannot be stretched too far to the level of invoking Article 21 of the Constitution of India. It is stated by the prosecution that the case has already been charged and taken on file as CC.No.111 of 2024. If there is no near possibility of securing the other accused, the prosecution shall file a memo with the trial court. The trial Court shall consider the same, split up the case, and conduct the trial as against the accused attending the court as expeditiously as possible, in any event not later than four months from the date of receipt of a copy of this order.

8.With the above observations for the present, this court is not inclined to allow this petition.

9.Accordingly, this Criminal Original Petition is dismissed.

Sd/-

14/08/2024

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/08/2024

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

DSS



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TO
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1. The Judicial Magistrate-II,
Usilampatti..
2. Do-Through The Chief Judicial Magistrate,
Madurai District.
3. The Superintendent, Central Prison,
Madurai..
4. The Inspector of Police,
Vikkaramangalam Police Station,
Madurai District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.M.SATHIYASEELAN, Advocate (SR-9978[I] dated 14/08/2024)

ORDER

IN

CRL OP(MD) No.11628 of 2024

Date : 14/08/2024

RD/SKN (23/08/2024) 5P / 7C

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