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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
( Criminal Jurisdiction )
Date : 20/09/2024
PRESENT
The Hon`ble Mr.Justice D.BHARATHA CHAKRAVARTHY
CRL OP(MD). No.14479 of 2024

Jeyaston ... Petitioner/Accused No.3

Vs

The Inspector of Police,
NIB CID, Thoothukudi,
Thoothukudi District.
(Crime No.18 of 2021). ... Respondent/Complainant

For Petitioner : M/s. Mariappan.R, Advocate.

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

PETITION FOR BAIL Under Sec.483 of B.N.S.S. U/s 439 of Cr.P.C.

PRAYER :-
For Bail in Crime No.18 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused, who was arrested and remanded to judicial custody on 08.10.2021 for the offences punishable under Section 8(c) r/w. Sections 20(b) (ii) (C), 29(1) and 25 of NDPS Act, in crime No.18 of 2021 on the file of the respondent police, seeks bail.

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2. The case of the prosecution is that the petitioner and other accused were in illegal possession of 530 Kgs of Ganja. Hence, the complaint.

3. The learned counsel for the petitioner seeks bail on the ground that the petitioner is languishing in prison from 08.10.2021, for almost three years and in spite of direction of this Court earlier in Crl.O.P.(MD)No. 7285 of 2023, dated 20.04.2023, to complete the trial within a period of six months, absolutely no steps were taken by the prosecution, even to open the trial. Only after this Court adjourned the present application, L.W.1 is now examined. The prosecution filed certain additional documents in the nature of information which was originally received by them and requested the trial Court to take the same on file. When the trial Court rejected the same, by an order dated 26.02.2024, they have been consistently taking adjournments before the trial Court, on the ground that, they are going to file appropriate revision before the High Court. Till date, no such revision is filed. Therefore, the learned counsel for the petitioner seeks enlargement on bail.

4. Since this Court had earlier granted direction to complete the trial within six months, remarks were also called for from the concerned Court. The case is now pending on the file of the District and Sessions Judge, Communal Clash Cases Court,

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Madurai. The learned Presiding Officer had submitted her remarks that the order dated 20.04.2023 passed by this Court in Crl.O.P.(MD)No.7285 of 2023 is not found in the file and neither the prosecution nor the defence brought the same to the notice of the Court.

5. Unfortunately, on a perusal of the order, the copy is wrongly marked to the Principal Judge for trial of NDPS cases, Madurai. Therefore, it may be correct that the learned Presiding Officer did not know the earlier direction of this Court. But the Court notices that the prosecution never brought the said direction to the notice of the court. This apart eventhough they are said to be aggrieved by the order which is passed with regard to the additional document, only now after two adjournments, it is now mentioned that the investigating officer is seeking the permission of the Superintendent of Police to proceed further in the matter. When the Government of Tamil Nadu is taking serious steps to curb the drug menace, the very important step is that the investigating officers shall pursue the cases swiftly. Considering the huge quantity of 530 Kgs of ganja, this Court has refused bail and directed them to conduct the trial swiftly. Unfortunately, the same is not done.

6. Therefore, let the copy of this order be placed before the Director General of

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Police, Tamil Nadu. Eventhough as against the interim order, revision has to be preferred, seven months have passed by and not even filing has been done. This is not with reference to the particular instance or with this particular case, but steps should be taken to properly conduct the case, in the pace at which it is required, which can only result in timely prosecution of those involved in the offences.

7. I considered the prayer made by the learned counsel for the petitioner. There are materials against the petitioner as the recovery is also made from the petitioner also. Quantity is a huge quantity of 530 kgs of ganja. The same has to be taken into account while considering whether the period of incarceration has to be treated as excessive so as to invoke Article 21 of the Constitution of India, to overcome the rigors of Section 37 and enlarge the petitioner. It is true that the petitioner is in custody for almost two years and 10 months as of now. Therefore, this Court views the same seriously. One final opportunity is granted to the prosecution to conduct the case swiftly. The investigating officer, is directed to conduct the trial swiftly by producing the witnesses. It is their look out to file their revision and to include the additional document also or not. In any event, the same has also to be done swiftly and the entire trial need not await for marking of the additional document, which can be done by recalling the witnesses, in case, if they succeed in their revision. The copy

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of the order shall also be brought to the notice of the trial court. The trial Court shall post the matter for hearing at least two days in a week, and on every hearing, at least, one or two witnesses have to be examined. It is stated that totally 24 witnesses have to be examined in the case. Therefore, within a period of two months from the date of receipt of this copy of this order, the trial shall be concluded. Failing which, this Court will again reconsider the issue of grant of bail to the petitioner.

8. With the above directions this Petition stands dismissed.

sd/-
20/09/2024

/ TRUE COPY /

20/09/2024
Sub-Assistant Registrar (AE )
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO
1. THE INSPECTOR OF POLICE,
NIB CID, THOOTHUKUDI, THOOTHUKUDI DISTRICT.

2.THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.

3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

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COPY TO

1.THE DISTRICT AND SESSIONS JUDGE,
COMMUNAL CLASH CASES COURT, MADURAI.

2.THE DIRECTOR GENERAL OF POLICE,
CHENNAI, TAMIL NADU.

3.THE CHIEF SECRETARY TO GOVERNMENT,
CHENNAI, TAMIL NADU,

+1 CC to M/s.J.JEYA ARON RAJA, Advocate ( SR-11497[I] dated 20/09/2024 )

ORDER
IN
CRL OP(MD) No.14479 of 2024
Date :20/09/2024

RK (20/09/2024) 6P / 8C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023

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