



CRL OP(MD). No.15832 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

( Criminal Jurisdiction )

Date : 25/09/2024

PRESENT

The Hon`ble Mr.Justice D.BHARATHA CHAKRAVARTHY

CRL OP(MD). No.15832 of 2024

K.Manikandan @ Mani,

... Petitioner/ Accused No.6

Vs

The State of Tamil Nadu,  
Rep by the Inspector of Police,  
Perambalur Pew, Perambalur.  
Cr. No. 346/2024.

... Respondent/Complainant

For Petitioner : M/s. Martin Manivannan.M.G,  
Advocate.

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

PETITION FOR BAIL Under Sec.483 of BNSS

PRAYER :-

For Bail in Crime No. 346 of 2024 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/A6, who was arrested and remanded to judicial custody on



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05.07.2024 for the offences under Sections 8(c) r/w 20(b)(ii)(C), 25 and 29(1) of NDPS

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Act, 1985, in Crime No.346 of 2024, on the file of the respondent police, seeks bail.

2.The learned counsel for the petitioner would submit that the petitioner in this case is entitled for bail. According to him, the petitioner is arrayed solely based on the confession of the co-accused. The confession of the co-accused or the confession of the petitioner himself, is absolutely not a material. The learned counsel would place strong reliance of the Constitution Bench Judgment of the Hon'ble Supreme Court of India in *Tofan Singh case*. He would further submit that when the recovery is made only from the other accused, the petitioner is being roped in only based on the confession. Then this is not a case for the arrest at all. Placing strong reliance on the Judgment of the Hon'ble Supreme Court of India in *State BY (NCB) Bengaluru Vs. Pallulabid Ahmad Arimutta and Anr.* (SLP (Crl.)No.242 of 2022), he would submit that in that case, the observations of the Supreme Court made in paragraph Nos.9 and 10 would cumulatively lay down that whenever persons are sought to be apprehended only based on the confession of the co-accused, that is a case even for grant of pre arrest bail. The liberty of the petitioner cannot be curtailed merely on suspicion and on the basis of a confession of the co-accused.



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3.The learned counsel would also rely upon the bail orders, in cases, which according to the learned counsel, are similarly situated in Crl.O.P.Nos.8290 of 2024 and 7900 of 2023 and Crl.O.P.(MD)No.17530 of 2022 etc. The learned counsel would point out that in all these cases, in somewhat similar situations, Courts have granted bail.

4.I have considered the submissions of the learned counsel for the petitioner and perused the material records of the case.

5.In this case, apart from the confession of the co-accused and the confession of the petitioner himself, the prosecution would submit that the *prima facie* material or that the petitioner was using a mobile phone with the Sri Lankan SIM card and he is said to have made several calls on the Wi-Fi and Internet. It is also further alleged that the petitioner paid a sum of Rs.2,50,000/- as a cash to the first accused, who in turn, has transferred the money by way of banking transaction. They have also further submitted that a notice of the CDR particulars, depicts that the petitioner travelled to the place of procurement of the contraband in Andhra Pradesh. They say that the petitioner has been involved in previous cases, where the allegations were made to smuggle Ganja to Sri Lanka.



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6. When the case involves, commercial quantity of seizure of 150kg of Ganja and the prosecution case is that all these petitioners are smuggling Ganja to the neighboring country of Sri Lanka, and when the petitioner is arrested now only on 05.07.2024, investigation being in the nascent stage, I am of the view that the petitioner is not entitled to bail.

7. There is no quarrel over the proposition that the confession of the co-accused or the confession of the petitioner himself cannot form the solitary piece of evidence to prosecute or to curtail the liberty of the petitioner. Therefore, when in this case, initially, even at the nascent stage, there are other materials and when the case involves international ramifications and seizure of Ganja of commercial quantity, sufficient time has to be granted to the prosecution to unearth evidence and to trace out further materials as against the petitioner. I am of the view that facts and circumstances of the case is very early to conclude that the petitioner is being prosecuted or arrested only on the basis of the confession and that there are no other materials. I am unable to agree with the contention of the learned counsel for the petitioner that the Hon'ble Supreme Court of India has laid down the law that the persons should never be arrested or they should be released on anticipatory bail whenever they are sought to be implicated on account of the confession of the co-



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accused. The Hon'ble Supreme Court had only upheld the anticipatory bail order which is granted on the facts and circumstances of the particular case in SLP(Crl.) No.242 of 2022.

8.Considering the materials in the instant case, I am unable to agree with the contention of the learned counsel. When the quantity involved is commercial in nature and when I am not able to find that the rigors of section 37 of the NDPS Act being overcome in the instant case and the investigation being in the early stage, the recovery itself being recently on 05.07.2024, I am unable to accede to the prayer made by the learned counsel for the petitioner.

9.Accordingly, the Criminal Original Petition stands dismissed.

sd/-  
25/09/2024  
/ TRUE COPY /

/10/2024  
Sub-Assistant Registrar  
( C.S. I / II / III / IV )  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

SJI

TO

1 THE INSPECTOR OF POLICE, PERAMBALUR  
PEW, PERAMBALUR

2 THE SUPERINTENDENT,  
CENTRAL PRISON, TRICHY.



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

ORDER  
IN  
CRL OP(MD) No.15832 of 2024  
Date :25/09/2024

SS/VR/SAR- /16/10/2024/6P/4C

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