



CRL OP(MD). No.16796 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

( Criminal Jurisdiction )

Date : 14/10/2024

PRESENT

The Hon`ble Mr.Justice D.BHARATHA CHAKRAVARTHY

CRL OP(MD). No.16796 of 2024

Satheesh Kumar,

... Petitioner/ Accused No.1

Vs

The State of Tamil Nadu,  
Rep By, The Inspector of Police,  
Aruppukottai Police Station,  
Virudhunagar.  
Cr.No.299 of 2022..

... Respondent/ Complainant

For Petitioner : M/s.Nishar Ahamed.N,  
Advocate.

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

PETITION FOR BAIL Under Sec.483 of BNSS

PRAYER :-

To enlarge the petitioner on bail in C.C.No.176 of 2023 on the file of the Additional District and Sessions Court / Presiding Officer Special Court for E.C. and NDPS Act Cases, Pudukkottai pending trial in Cr.No.299 of 2022.



**CRL OP(MD). No.16796 of 2024**

**ORDER :** The Court made the following order :-

The petitioner/Accused, who was arrested and remanded to judicial custody on 25.12.2022 for the offences punishable under Sections 8(c) r/w. 20(b)(ii)(c), 25, 27A and 29(1) of NDPS Act in crime No. 299 of 2022 on the file of the respondent police, seeks bail.

2. The learned counsel for the petitioner would contend that even though in this case it is the case of the prosecution that the entire search was conducted in the presence of the Gazetted officer, the signature is not at all found in the seizure Mahazar and there is no material whatsoever to show that the Gazetted officer was present at the time of seizure. When it is a specific case of the prosecution that the accused had objection for the police to search and when the Gazetted officer's sign is not in the search memo as well as in the seizure mahazar this is a clear case of violation of section 50 of the NDPS Act and therefore, the petitioner has to be enlarged on bail.

3. In reply thereof, the learned Additional Public Prosecutor would submit that when the search was objected by the petitioner, due notice has been given and only



CRL OP(MD). No.16796 of 2024

after Gazetted Officer was nominated search was conducted and when the contraband was packed after drawing the sample on the signature of the Gazetted officer was obtained on the said packet. The photographs of the said packet and the paper which is placed on top of it is also produced before this court. Whether the said pasted material on top of the cover containing the contraband can by itself be taken as the search / seizure memo are all questions to be gone into during the trial.

4. It is the contention of the learned counsel for the petitioner that it is only an afterthought and there was no search at all in the presence of the Gazetted officer.

5. Be that as it may, when prima facie the signature of the Gazetted officer is shown, then it becomes the defence of the petitioner, the same can be gone into only at the time of trial. Since in this case it is stated that there are totally 14 witnesses and already LW.1 to LW.3 have been examined, the trial itself can be completed within a period of two months from today, leaving open all the questions for the petitioner to raise it before the trial Court, at this juncture, I am not inclined to enlarge the petitioner on bail.

6. Since the petitioner's prayer for bail is rejected, the prosecution is directed to



CRL OP(MD). No.16796 of 2024

WEB COPY

complete the trial as expeditiously as possible. A copy of this order shall also be placed before the trial court, and the trial court shall also endeavour to post the case in short hearings and complete the trial in any event not later than two months from the date of receipt of a copy of this order.

7. With the above direction, this Criminal Original Petition stands disposed of.

sd/-

14/10/2024

/ TRUE COPY /

/10/2024

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

TRP

TO

- 1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE /  
PRESIDING OFFICER  
SPECIAL COURT UNDER EC AND NDPS,  
PUDUKKOTTAI.
- 2 THE INSPECTOR OF POLICE,  
ARUPPUKOTTAI POLICE STATION,  
VIRUDHUNAGAR.
- 3 THE SUPERINTENDENT,  
CENTRAL PRISON, MADURAI.



CRL OP(MD). No.16796 of 2024

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

ORDER  
IN  
CRL OP(MD) No.16796 of 2024  
Date :14/10/2024

SS/JGB/SAR- /21/10/2024/ 5P/5C

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