



CRL OP(MD). No.19192 of 2023

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)**

Date : 02/01/2024

CORAM

The Hon`ble Mr.Justice M.DHANDAPANI

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Arockiyasamy,

... Petitioner/ Accused No.8

Vs

**The Inspector of Police,
Pew Police Station, Theni District.
(In Crime No.202/2023)..**

... Respondent/Complainant

**For Petitioner : Mr.J.Selvam,Advocate
For Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor**

PETITION FOR BAIL U/S 439 OF Cr.P.C

PRAYER :-

To release the petitioner on bail in CC No.962/2023 on the file of the Honble Principal Spl. Judge for NDPS Act Cases, Madurai in Crime No.202/2023 on the file of the Respondent Police.

ORDER

The petitioner/A8, who was arrested on 10.03.2023 for the offences under Sections 8(c) r/w 20(b)(ii)(B) & 25, 29(1) of NDPS Act @ into under Sections 8(c) r/w 20(b)(ii)(C) and 25, 29(1) of NDPS Act in Crime No.202/2023 on the file of the

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respondent police, seeks bail.

2. The case of the prosecution is that on 07.03.2023, at about 7.00 p.m., on a secret information, the respondent police intercepted a vehicle bearing registration No.TN-60-BY-1981 and another two wheeler bearing Registration No.TN-60AJ042. A1 was riding one of the vehicle and the respondent police recovered 2 Kgs of Ganja from A-1 and on the confession statement of A-1, the respondent police recovered 1.600 kgs from A-2, 1.600 kgs from A-3, 5 kgs., from A-5 and 6 kgs., from A-6 and A-7 respectively. Totally, the respondent police recovered 24 Kgs of Ganja. It is the confession of A1 that they purchased the said contraband from Andra Pradesh in 14 bags each containing 2 kgs and after retaining three bags, the remaining bags were hide in the bushes adjacent to the hill area. Except this statement, no other statement was made . Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is arrayed as A-8 and as per the confession statement of A1, the contraband was recovered from all other accused and no contraband was recovered from the petitioner herein. The petitioner is no way connected with the alleged offence and no recovery was made from the petitioner herein. Earlier, bail was dismissed by this

Court vide order dated 12.06.2023 in Crl.O.P.(MD) No.8801 of 2023. The petitioner is

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in incarceration right from 10.03.2023 and hence, prays for bail.

4.However, by filing a counter, the learned Additional Public Prosecutor would submit that along with A1, A6 to A8 purchased the contraband in 14 pockets each contained 2 kgs of Ganja. During investigation, the respondent police seized 2 kgs of Ganja from A1, 8 kgs of Ganja from A-6, 6 kgs from A-7 and 6 kgs from A-8 and also arrested A-9 Arockiyasamy along with his two wheeler. Since the alleged contraband seized is more than commercial quantity, the respondent police altered the Sections to 8(c) r/w 20(b)(ii)(C) and 25, 29(1) of NDPS Act and A-5 Murugeswari was also arrested from Andhra Pradesh pursuant to the information obtained and she was remanded to judicial custody.

5.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent.

6.The facts in the present case is not in dispute. Admittedly, the alleged contraband was recovered from other accused, namely, A1 to A7 and not from this petitioner, who is arrayed as A-8. The alleged confession statement was made by A-1 before the respondent police to the effect that four persons, namely, Chandra,



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Sumathi, Shanthi and one other accused went to Andhra Pradesh and purchased 14 bags each containing 2 kgs and they retained 3 bags and 11 bags were hidden in a bush adjacent to the hill area and the same was handed over to one Arockiyasamy, ie, the petitioner herein. Though such a statement was made, no recovery whatsoever was made from this petitioner. Mere confession made by the other accused will not deprive the rights of the person to get bail, when no previous case is pending against him and no recovery was made from him. It is also to be noted that the petitioner has satisfied the twin conditions required under Section 37 of the NDPS Act.

7. Considering the facts and circumstances of the case and considering the fact that no recovery was made from this petitioner, this Court is inclined to grant bail to the petitioner.

8. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Principal Sessions Judge for EC and NDPS Act cases, Madurai, and on further condition that:

(a) 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



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Book to ensure their identity;

(b)the petitioner shall report before the respondent police, daily at 10.30 a.m.

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

(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/-
02/01/2024

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03/01/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

RR



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TO
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- 1 THE PRINCIPAL SESSIONS JUDGE
FOR EC AND NDPS ACT CASES, MADURAI.
- 2 THE INSPECTOR OF POLICE
PEW POLICE STATION, THENI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.J.SELVAM, Advocate (SR-39[I] dated 03/01/2024)

ORDER
IN
CRL OP(MD) No.19192 of 2023
Date :02/01/2024

PKP/SAR- /03.01.2024/ 6P/ 5C

Madurai Bench of Madras High Court is issuing certified
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