



CRL OP(MD) No.19018 of 2023

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

Monday, the Eighth day of January Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.19018 of 2023

SANJAYKUMAR

... PETITIONER/ACCUSED NO.3

Vs

THE INSPECTOR OF POLICE
THEPPAKULAM POLICE STATION,
MADURAI CITY.
CR.NO.423/2023

... RESPONDENT/COMPLAINANT

For Petitioner : MR.P.T.RAMESH RAJA, Advocate
for MR.K.SATHISH KUMAR, Advocate
For Respondent : MR.B.NAMBISELVAN, Additional Public Prosecutor

PETITION FOR BAIL Under Sec. 439 Cr.P.C.

PRAYER : FOR BAIL IN CRIME NO.423/2023 ON THE FILE OF THE
RESPONDENT POLICE.

ORDER : The Court Made the following order :-

The petitioner / Accused No.3, who was arrested and remanded to judicial custody on 22.09.2022 for the alleged offence punishable under Sections 8(C) r/w 20 (b)(ii)(C) and 29(1) of the Narcotic Drugs and Psychotropic Substances Act, 1985 in Crime No.423 of 2023 on the file of the respondent Police, seeks bail.



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2. The case of the prosecution is that on 04.09.2023 at about 08.00 hrs., the respondent Police received a secret information from his informer and based on the same, the respondent Police along with the other Police Officials went near Keelmadurai Railway Station and they surrounded and secured Accused Nos.1 to 3 and recovered 21 kgs of Kanja from them. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has nothing to do with the alleged offence. He would further submit that the petitioner is ready to abide by any conditions imposed by this Court. The learned counsel appearing for the petitioner would further submit that the petitioner's brother, viz., Kaviarasan was forced by the Police Constable, viz., Pandi to sell liquor and give 'mamool' to him. At one point of time, he refused to sell the liquor and pay him. Due to that, the respondent Police foisted a false case against the petitioner herein. He would further submit that the Ganja was recovered only from Accused Nos.1 and 2 and not from the petitioner herein. The petitioner's brother Kaviarasan paid a sum of Rs.2,000/- to the said Pandi through G-Pay and in this regard, enquiry has been conducted and the same was closed based on the explanation given by the Police Constable Pandi. He would further submit that one day prior to the alleged occurrence, the Police Constable has given a lift to Petitioner in his motorcycle and he was secured on the next day. He would further submit that



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the CCTV Footage was also available in this regard. Accordingly, he prayed for bail.

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Therefore, the learned counsel appearing for the petitioner requests before this Court to issue a direction to the respondent Police to conduct further investigation with regard to the payment of money by the petitioner's brother in favour of the Police Constable Pandi.

4. The learned Additional Public Prosecutor appearing for the respondent Police would submit that totally 21 kgs of Ganja was recovered from the accused. He would further submit that the Ganja which was recovered from the petitioner is a commercial quantity. Hence, he prays for dismissal of this petition.

5. It is seen that the Police Constable, viz., Pandi attached with the respondent Police had forced the petitioner's brother to sell the liquor illegally and thereafter, he collected the mamool from him. The petitioner's brother Kaviarasan paid a sum of Rs.2,000/- to the said Pandi through G-Pay. In this regard, enquiry was conducted by the respondent Police and in that enquiry, the said Pandi gave an explanation by agreeing that he received a sum of Rs.2,000 from the petitioner's brother and after accepting the explanation, the respondent Police closed the complaint. It also appears that the said Pandi gave a lift to the petitioner one day prior to his arrest. This makes it clear that the said Police Constable Pandi had relationship with the accused persons. All these things would go to show that the enquiry has not been properly



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conducted by the respondent Police. Hence, the Inspector of Police, Theppakulam Police Station, Madurai City and the Sub Inspector of Police are directed to forward the entire enquiry report to the Commissioner of Police, Madurai City and after receiving the report, the Commissioner of Police is directed to appoint one Enquiry Officer and the Enquiry Officer shall conduct an enquiry and take appropriate action within a period of six (6) weeks from the date of receipt of a copy of this order.

6. Considering the facts and circumstances of the case and also considering the fact that the contraband which was recovered from the petitioner is a commercial quantity and also considering the fact that the petitioner is not satisfied the twin conditions as required under Section 37 of the NDPS Act, 1985, this Court is not inclined to grant bail to the petitioner.

7. Accordingly, the Criminal Original Petition stands dismissed.

sd/-

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

TSG

TO

1 THE INSPECTOR OF POLICE, THEPPAKULAM POLICE STATION,
MADURAI CITY.



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2 THE OFFICER INCHARGE, DISTRICT PRISON, DINDIGUL.

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

COPY TO

1 THE COMMISSIONER OF POLICE, MADURAI CITY.

2 THE SUB INSPECTOR OF POLICE, THEPPAKULAM POLICE STATION,
MADURAI CITY.

ORDER

IN

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Date :08/01/2024

RS/VR/SAR-(24.01.2024) 5P 6C

Madurai Bench of Madras High Court is issuing
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