



CRL OP(MD). No.19234 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 02/01/2024

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD). No.19234 of 2023

1. Srinivasa Rathinam,

2. Srinivasan,

... Petitioners/ Accused Nos. 1 & 2

Vs

**The Inspector of Police,
Pew, Trichy City Police Station,
Trichy.**

Crime No.694/2023.

... Respondent/ Complainant

For Petitioners : Mr.M.Suresh, Advocate.

**For Respondent : Mr.B.Nambi Selvan,
Additional Public Prosecutor**

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

PRAYER :-

For Bail in Crime No.694 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioners who were arrested and remanded to judicial custody on



CRL OP(MD). No.19234 of 2023

14.09.2023 for the offences under Sections 8(c) r/w 20(b)(ii)(c) and 25 of NDPS Act, 1985 in Crime No.694 of 2023 on the file of the respondent police, seek bail.

2.The case of the prosecution is that based on the secret information, the respondent police was on search in the Sri Rengam Bus Stand, at that time, the petitioners came in a two wheeler and the respondent police stopped the two wheeler and searched. On search, the respondent police found that the petitioners were in possession of 2 kgs of Ganja from the white colour bag. Based on the confession of A1, they recovered another 20kgs of Ganja from the petitioners. Hence, the complaint.

3.The learned Counsel for the petitioner submitted that based on the secret information, the Law Enforcing Agency intercepted A1 and A2 and initially they recovered 2kgs of Ganja from A1 and based on the confession of A1, they went to the lodge, where, A1 and A2 were stayed and recovered 20kgs of Ganja. However, the entire recovery is only from A1 and not from A2 and no previous case is pending against A2 and one previous case is pending against A1, that too, IPC offence and not for similar offence. Hence, he seeks for grant of bail to the petitioners.

4.The learned Additional Public Prosecutor for the State submits that the petitioners were in joint possession of 22kgs of Ganja and 2kgs of Ganja was



CRL OP(MD). No.19234 of 2023

recovered from the vehicle owned by A1 and the remaining 20kgs of Ganja was recovered from the lodge, where, A1 and A2 were stayed. He further submits that the petitioners possessed contraband jointly and the joint possession was recovered from A1 and the petitioners have not satisfied with the twin conditions required under Section 37 of the NDPS Act. He further submits that during the pendency of the bail application, the investigation has been completed and the charge sheet has already been filed before the concerned Court. Hence, he vehemently opposed for grant of bail to the petitioner.

5. Heard the learned counsel on either side.

6. The facts in the present case are not in dispute. The recovery is made only from A1 and initially they recovered 2kgs of Ganja and subsequently, they recovered 20kgs of Ganja from the lodge, where, A1 and A2 were stayed and recovered 20kgs of Ganja. However, no recovery was made against A2 and no previous case is pending against him.

7. Since the first accused was possessed 22kgs of Ganja and he has not satisfied the twin conditions required under Section 37 of the NDPS Act, this Court is not



CRL OP(MD). No.19234 of 2023

inclined to grant bail to the first accused. Hence, this petition is dismissed in respect of the first petitioner.

8.Considering the above facts and circumstances of the case and also the fact that no contraband was recovery from A2 and no previous case is pending against him, this Court is inclined to grant bail to the second petitioner/A2 with certain conditions:

9.Accordingly, this Criminal Original Petition is partly allowed and the second 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 Additional District and Sessions Judge/Special Court for E.C. and NDPS Act Cases, Pudukkottai and on further conditions 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 Book to ensure their identity;

(b) the second petitioner is directed to appear before the concerned Court on all hearing dates, after numbering the charge sheet;

(c)the second petitioner shall not tamper with evidence or witness either during



CRL OP(MD). No.19234 of 2023

investigation or trial;

(d)the second 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 second petitioner in accordance with law as if the conditions have been imposed and the second 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.

SJI
TO

1 THE ADDITIONAL DISTRICT AND
SESSIONS JUDGE/ SPECIAL COURT FOR E.C AND
NDPS ACT CASES, PUDUKKOTTAI.



CRL OP(MD). No.19234 of 2023

- 2 THE INSPECTOR OF POLICE
PEW, TRICHY CITY POLICE STATION, TRICHY.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.19234 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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