



Crl.OP(MD)No.23149 of 2023

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

Dated: 22/01/2024

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.OP(MD)No.23149 of 2023

Sanmugam

: Petitioner/ Accused No.3

Vs.

**The State rep. by its
Inspector of Police,
NIBCID Dindigul Police Station,
Dindigul District.
(CrimeNo.05 of 2022)**

: Respondent/ Complainant

For Petitioner : Mr.J.Deliban, Advocate

For Respondent : Mr.S.Ravi, Additional Public Prosecutor

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

PRAYER:- For Bail in Crime No.5 of 2022 on the file of the respondent police.

ORDER: The Court made the following order:-

**The petitioner/A3, who was arrested and remanded to judicial custody, on
30/03/2022 for the offences punishable under sections 8(c) r/w 20(b)(ii)(c) 25 and 29
(1) of Narcotic Drugs and Psychotropic Substances Act, 1989 in Crime No.05 of 2022
on the file of the respondent police, seeks bail.**

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2.The case of the prosecution is that on 30/03/2023, based on the secret information given by the informant, the respondent police along with the police party conducted vehicle check up on Vedasandur-Kakathope Vilakku Pirivu Road. At that time, the petitioner along with others were found in possession of 215 kgs of Ganja. Hence this case.

3.Heard both sides.

4.This petition has been filed on medical ground.

5.A report was called for from the prison authorities to show the health condition of this petitioner. Medical report shows that now the present health condition of the petitioner is stable and he is doing and following the daily activities. So, the ground, on which this petition came to be filed is not believable.

6.It is also submitted by the petitioner that except the confession statement of the co-accused, no other material has been collected during the course of investigation to implicate him. But all these grounds have been taken by the petitioner in earlier occasion also. After consideration the above said grounds, the earlier petition was rejected. Huge quantity of 215 kgs of Ganja is involved in this case. It was also considered that the petitioner also travelling in the vehicle from where the above said contraband has been recovered.

7. Whether this petitioner had knowledge about the availability of the

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contraband or not can be considered only during the course of trial. No new ground has been made out by the petitioner.

8.The learned counsel appearing for the petitioner by relying upon the judgment of the Hon'ble Supreme Court reported in the case of Mohd. Muslim @ Hussain Vs. State (NCT of Delhi (2023 LiveLaw (SC) 260) would submit that the delay in conclusion of the trial process itself is a ground, which can be taken into account, while considering the bail application.

9.But however, considering the fact that already direction was issued by this court. Considering the huge quantity of the contraband that was recovered, there is no guarantee that the petitioner will not commit similar offence during bail period. So the contention on the part of the petitioner that he was engaged by the second accused for the purpose of driving the vehicle and without knowing the contents of the load, he drove the vehicle, as mentioned earlier, it is only for consideration by the trial court at the time of trial. This is too a premature stage to take up the issue.

10.More-over, in the judgment cited by the petitioner, the accused was arrested or implicated on the basis of the statement of the co-accused. But here, as mentioned above, this petitioner was the driver of the vehicle, which was loaded with huge contraband. So he was arrested on the spot itself.

11.In view of that, this criminal original petition is dismissed. But however,



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there shall be a direction to the trial court to split up the case against the accused, who are regularly appearing and dispose of the same as directed earlier by this court in Crl.OP(MD)No.11450 of 2023. The above said order was passed, on 30/06/2023. Thereafter, it appears that no extension of time was requested by the trial court. Since time lapsed, there shall be a fresh direction to the trial court to split up the case against the accused, who are regularly appearing and dispose of the same within a period of five months from the date of receipt of a copy of this order. If the trial could not be completed within the period stipulated by this court, then the petitioner is at liberty to approach the concerned trial court for bail without approaching this court.

12.With the above said direction and liberty, this criminal original petition stands dismissed.

sd/-
22/01/2024

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

ER
TO

1 THE PRINCIPAL SPECIAL JUDGE
FOR TRIAL OF NARCOTIC DRUGS AND
PSYCHOTROPIC SUBSTANCE ACT CASES, MADURAI.

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- 2 THE INSPECTOR OF POLICE
NIBCID DINDIGUL POLICE STATION,
DINDIGUL DISTRICT.
- 3 THE SUPERINTENDENT
CENTRAL PRISON,MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.23149 of 2023
Date :22/01/2024

PKP/GS/SAR /06.03.2024/ 5P/ 5C

Madurai Bench of Madras High Court is issuing certified
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