

In the court of the Principal Special Court for EC & NDPS Act Cases, Madurai.

Present : Thiru.V.Padmanabhan, M.A., M.L. D.H.
Additional District Judge/Presiding Officer.

Dated this the 18th Day of May 2020, Monday.

Special Crl.M.P.No. 65 of 2020

...

Keerthigan, (19/2020)

S/o.Periyakaruppan.

.. Petitioner/Accused.

/Versus/

State through the Inspector of Police,

Usilampatti Taluk Police station.

Cr.No.82/2020.

.. Respondent/Complainant.

This bail petition is filed through **online/email** on 21.04.2020 account of the Court Manager, Principal District Court, Madurai and taken on file, before me finally on this day in the presence Thiru .D.Senthilrajan and Thiru.J.Jeya Aron Raja, Advocates for the petitioner and Thiru.P.Seetharaman, Special Public Prosecutor and upon perusing the records this court delivered the following:-

ORDER

1) Due to national lockdown for COVID 19 virus pandemic, as a result prohibitory order u/s 144 of Cr.P.C has been promulgated by the Government of Tamil Nadu since 25.3.2020 and in turn regular work of the Subordinate Judiciary has also been suspended by the Hon'ble High Court of Madras. Whereas, exceptions have been granted to attend urgent works like bail depending upon the facts and circumstances of the case and also the nature of emergency. Accordingly, this petitioner/accused has filed this bail application on 21.04.2020 through online which has been forwarded to this court through e-mail account through the Court Manager, Principal District Court, Madurai, and taken on file.

2) Heard both sides through conference call.

3) The learned Counsel appearing for the petitioner/accused would submit that the petitioner has been in judicial custody from 19.03.2020 and charged for the alleged offence under section 8 (c) r/w 20 (b) (ii) (C) & 29(1) of NDPS Act; that the petitioner did not involve in this incident as alleged on prosecution side; that the petitioner is an innocent person; that if the petitioner is released on bail he will abide the conditions of this court and that he may be released on bail.

4) On the other hand, in the objections filed on prosecution side it is stated that the petitioner already involved in similar nature of offence; that petitioner is habitual offender; that totally 3 accused involved in this case incident; that they have also given confession statements; that investigation is pending; that if the petitioner is released on bail he will again involve in similar nature of offence and that petition may be dismissed.

5) In the objections filed on prosecution side it is specifically stated that the petitioner already involved in similar nature of offences. As per S.37 of NDPS Act in respect of commercial quantity the Court cannot grant bail to the accused as a matter of routine. The court has to satisfy based on the reasonable grounds that the accused will not be found guilty if the trial is taken up. Further, this Court has to satisfy that if the accused was granted bail he will not commit any such similar offence on bail. As indicated in the objections the petitioner already involved in similar nature of offence, this court could not hold that the petitioner will not involve in similar offence in future if he is granted bail.

6) From perusal of entire case records, at this stage prima facie material is available to show that the petitioner along with co-accused hatched with conspiracy and at the time of incident ganja was recovered from the petitioner as alleged on prosecution. Moreover the petitioner already involved in two previous case incidents which are similar in nature.

7) During argument hearing the learned Counsel for the petitioner further contended that the contraband weighing 4 kgs was only recovered from the petitioner and

different athatchies were prepared in different places. Further he argued that the case in respect of petitioner does not fall under commercial quantity in nature. This argument is not acceptable at this stage. FIR was registered against the three accused persons u/S. 29(1) of NDPS Act among other sections. From the perusal of entire records including confession statements of the accused at this stage prima facie material is available that the petitioner along with co-accused hatched with conspiracy and procured ganja from other state.

. 8) For granting bail in a case involving commercial quantity under NDPS Act satisfaction in terms of section 37 of NDPS Act must be records. But the petitioner did not put forth any reasonable ground for belief that he is not guilty of offence and he is not likely to commit the offence on bail.

9) After dismissal of earlier bail application there is no change of circumstances

10) Considering the above circumstances, serious objections on prosecution side, previous bad antecedents of the petitioner and in the interest of justice, this court is not inclined to grant bail to the petitioner at this stage.

In the result, this petition is dismissed.

(Sd-) V.Padmanabhan,
Additional District / Judge Presiding Officer,
Prl. Spl Court for EC & NDPS Act Cases,
Madurai.