



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

Tuesday, the Twenty Fourth day of November Two Thousand Fifteen

PRESENT

The Hon`ble Ms.Justice V.M.VELUMANI

CRL OP(MD)Nos.16531, 16317 & 16318 of 2015

WEB COPY

JOTHIMURUGAN

..PETITIONER/ACCUSED NO.3
in Crl.OP(MD)No.16531/2015

P.MUTHUMARI @ MANDAMANI

..PETITIONER/ACCUSED NO.1
in Crl.OP(MD)No.16317/2015

GANESAN @ MUTTAKANNAN

..PETITIONER/ACCUSED NO.2
in Crl.OP(MD)No.16318/2015

Vs.

STATE REP.BY
THE INTELLIGENCE OFFICER
NCB MADURAI,
N.C.B. FILE NO.48/1/01/2014/MDU.

..RESPONDENT/COMPLAINANT
in Crl.OP(MD)No.16531/2015

STATE REP.BY
THE INTELLIGENCE OFFICER
NARCOTIC CONTROL BUREAU,
MADURAI SUB ZONE, MADURAI
(N.C.B.FILE NO.48/1/01/2014).

..RESPONDENT/COMPLAINANT
in Crl.OP(MD)Nos.16317 & 16318/2015

For Petitioner : M/S.G.KARUPPASAMY PANDIAN, for
Mr.S.MUNIYANDI Advocate in all the cases

For Respondent : MR.C.ARUL VADIVEL @ SEKAR for SPECIAL PUBLIC PROSECUTOR
for NCB CASES in all the cases

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

ORDER : The Court Made the following order :-

The petitioners/Accused Nos.1 to 3, who were arrested and remanded to judicial custody on 06.06.2014 for the alleged offences punishable under Sections 8(c) r/w 20(b)(ii)(C) and 27(A) and 28 and 29 of NDPS Act, in NCB File No.48/1/01/2014, on the file of the respondent police and hence, seek bail.

2.The case of the prosecution is that on 06.06.2014 on information, the respondent police searched the petitioners house located at Ammankovilpatti, Rajapalayam Taluk, Virudhunagar District and seized the contraband containing 36.133 kgs. All the petitioners were arrested and remanded to judicial custody on the same day and therefore, the case has been registered for the above said offences.

3.The case of the petitioners is that they are innocent persons and they have not committed any offences and the respondent police has not followed the procedure contemplated under Section 42,52,55 and 57 of NDPS Act. In the seizure Mahazar crime number has been mentioned, which shows police has foisted the case against the petitioners. The petitioners are innocent. They are in judicial custody from 06.06.2014.



4.The learned counsel for the petitioners relied on the judgment reported in **2004 Cri.L.J.4353 (Fatto v. State of M.P.)** and it is stated that the female police was not present at the time of search.

5.The learned Special Public Prosecutor appearing for the respondent filed a counter affidavit and it stated that all the procedure contemplated under Act had been followed. The total quantity of 36.133 Kgs of Ganja is seized and it is commercial quantity. Already this Court considered all the contention of counsel for petitioner in earlier order, dated made in Crl.OP(MD)Nos.7917, 9746 & 9739 of 2015 and rejected the very same contentions. There is no changed circumstances and therefore, prayed for dismissal of all the Crime Original Petitions. One female Constable by name Mrs.Andal was present.

6. As rightly pointed out by learned Special Public Prosecutor, this court considered very same contentions raised by the petitioner in earlier Crl.OP.Nos.7917,9746 and 9739 of 2015 filed by petitioner and by detailed order, rejected the contentions of the petitioners and dismissed Crl.OP(MD)Nos.7917, 9746 and 9739 of 2015. At present, there is no changed circumstances and considering the gravity of offence, I am not inclined to enlarge the petitioners on bail. Hence, these petitions are dismissed.

sd/-
24/11/2015

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE INTELLIGENCE OFFICER, NCB, MADURAI,
- 2 THE INTELLIGENCE OFFICER, NARCOTIC CONTROL BUREAU, MADURAI SUB ZONE, MADURAI.
- 3 THE ADDL.PUBLIC PROSECUTOR,MADURAI BENCH OF MADRAS HIGH COURT,MADURAI.
- 4 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
- 5 THE OFFICER INCHARGE, WOMEN PRISON, TRICHY.

+3. CC to M/S C.Arul Vadivel @ Sekar, Advocate SR.No.67526, 67527 & 67528

ORDER IN
CRL OP(MD)Nos.16531,16317 & 16318 of 2015
Date :24/11/2015

PBK/AAL-MPA/SAR-I 27/11/2015 ::2P-9C::