



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

Tuesday, the Seventeenth day of February Two Thousand Fifteen

PRESENT

WEB COPY

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP(MD) No.2184 of 2015

JOHNSON

... PETITIONER/ACCUSED NO. 3

Vs

STATE REP BY THE INSPECTOR OF POLICE

PAMPAN POLICE CIRCLE, RAMANATHAPURAM DIST,

CRIME NO.63/2014

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.R. RAJAN Advocate

For Respondent : MRS.S.PRABHA Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioner, who was arrested and remanded to judicial custody on 23.09.2014 for the alleged offences punishable under Sections 8(c) r/w 20(b)(ii)(B) and Section 25 of NDPS Act, 1985 in Crime No.63 of 2014 on the file of the respondent police, seeks bail.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the State.

3. The respondent has filed a detailed counter, in which they have stated as follows:

"I respectfully submit that prosecution case is that on 23.09.2014 on the basis of secret information, the respondent police conducted vehicle checkup along with the Village Administrative Officer, and Village Assistant, Pamban Group at Nalupanai Vilakku during the time one TATA Indigo Manza bearing Ref.No.TN 65 L 0068 and Pulsur Two Wheeler bearing Ref.No.TN 65 E 5907 and the intercepted the vehicles, immediately 3 accused persons from the car and the billion rider in the bike were escaped and the respondent police secured the remaining 2 accused persons in the car and also secured the rider of the bike and further on enquiry the respondent police came to know that they are 1.Saravanan @ Saran, S/o.Selvaraj (who is the petitioner herein) 2. Nagaraj @ Nagendran, S/o.Velu, 3.Selvakumar, S/o.Ramadass and on search the respondent



police found 3 Nos. of plastic bags contains 30 kgs, 33 kgs and 35 kgs of kanja in the car dicky and seized totally 98 kgs of Kanja from the car and 2 pockets (each contains 2.250 grms) totally 4.5 kgs and kanja from the bag kept in the bike and after completed all the formalities the respondent police registered a case in Cr.N.63/2014 Under Section 8(c) r/w.20(b)(ii)(c) and 25 of NDPS Act and taken up for investigation."

4. Learned counsel for the petitioner submitted that as far as this petitioner is concerned, he was found only in possession of 4.5 kgs of Kanja, which is less than the commercial quantity and that will not attract the provisions of Section 37 of NDPS Act. This Court is unable to agree with the submission, in view of the averments in Paragraph No.4 of the counter, which is as follows:

"4.I respectfully submit that in this case totally 6 accused were involved and this petitioner has been arrayed as A3. This petitioner was arrested on the same day and sent him to Judicial Custody. The co-accused namely Saravanan, Nagaraj, and this petitioners gave a confession statement. The confession statement clearly proved the involvement of the petitioner in this crime. All the accused purchase the kanja and plan to transport to Srilanka."

5. It is too premature to give a finding at this stage that this petitioner was found in possession of 4.5 kgs of Kanja, as that will foreclose the prosecution case peremptorily. Therefore, in the light of the provisions of Section 37 of NDPS Act, it cannot be said that there are no materials against this petitioner. Hence, the Criminal Original Petition is dismissed.

sd/-

17/02/2015

/ TRUE COPY /

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

TO

- 1 THE INSPECTOR OF POLICE
PAMPAN POLICE CIRCLE, RAMANATHAPURAM
- 2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI
- 3 THE ADDL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.2184 of 2015

Date :17/02/2015