



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

Tuesday, the Thirteenth day of January Two Thousand Fifteen
PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP(MD) No.22322 of 2014

WEB COPY

VIMALA

... PETITIONER/ACCUSED NO.2

Vs

THE STATE REP BY
THE INSPECTOR OF POLICE
NIB CID, MADURAI.
CRIME NO.123 OF 2014

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.M.RAMU Advocate

For Respondent : Mr.A.P.BALASUBRAMANI,
Govt. Advocate (Crl. Side)

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 8(c) r/w 20(b)(ii)(C) and 25 of NDPS Act in Crime No.123 of 2014, seeks anticipatory bail.

2. This is third anticipatory bail petition. The contraband seized in this case is 25 Kgs of Ganja, which is a commercial quantity and therefore, the provisions of Section 37 of NDPS Act would apply.

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

"2. I humbly submit that prosecution case is that on the basis of secret information, on 05.07.2014, the respondent police went to Thathaneri to Sellur Road in front of Ammachiyar Kovil at that time one two wheeler coming, bearing Reg.No.TN 58 AE 2766 which was droved by one Saravanan, S/o.Jeganathan and the petitioner herein is the billion-rider and kept one white color gunny bag. Further on the identification by the secret informer the respondent police intercepted the vehicle, suddenly the petitioner herein who is the billion rider escaped from the place and on enquiry with the said Saravanan the respondent police came to know that the escaped person is the petitioner herein and after completed the formalities the respondent police made search the Saravanan and came to know that the white colour gunny bag containing 25 kgs of



kanja, and after due enquiry and after completed all the formalities the respondent police arrested the accused and registered a case in Cr.No.123/2014 Under Section 8(c), r/w. 20(b), (ii), (c) & 25 of NDPS Act and taken up for investigation.

5. I humbly submit that the confession statement of the accused Saravanan clearly revealed that the petitioner herein colluded with him for the past 8 years and buying kanja from him and sold the same in the local area. Further respondent police seized 25 kgs of kanja it is commercial quantity.

6. I humbly submit that the petitioner herein already involved in Cr.No.774/2013 on the file of the Avaniyapuram Police Station, Madurai District and Avaniyapuram police seized 1 1/4 kgs of kanja from the petitioner herein in that case. It reveals that the petitioner herein frequently involved in the similar offence and a habitual offender."

4. Learned counsel for the petitioner submitted that the prosecution's case is unbelievable inasmuch as the petitioner jumped from the two wheeler and escaped cannot be believed.

5. This Court does not find anything strange in the prosecution version. It is indeed possible for a person of this petitioner's kind to escape in times of peril.

6. Learned counsel for the petitioner relied upon an order of the learned Single Judge of this Court in Crl.O.P.(MD) Nos.23530 of 2013 and 592 and 1074 of 2014, wherein the learned Single Judge, while granting bail to the petitioners therein had distributed the seized contraband of 26 kgs. of Ganja amidst occupants of the car , so as to reduce it below the commercial quantity.

7. I am unable to persuade myself to agree with this view and moreover bail orders cannot be cited as judicial precedents and they are rendered by Judges on the facts and circumstances of each case. If such apportionment is permitted, the salutary provisions of NDPS Act would stand negated.

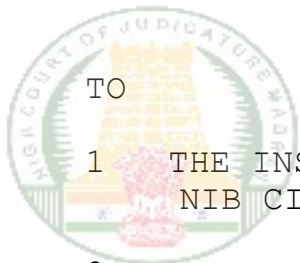
8. Under such circumstances, taking into consideration the gravity of the allegation against this petitioner, it is not a fit case to grant anticipatory bail to the petitioner. Hence, the Criminal Original Petition is dismissed.

sd/-

13/01/2015

/ TRUE COPY /

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



TO

1 THE INSPECTOR OF POLICE
NIB CID, MADURAI. CRIME NO.123 OF 2014

2 THE ADDL.PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.22322 of 2014

Date :13/01/2015

NA/21/01/2015/P3/3C