



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

Tuesday, the Twenty First day of March Two Thousand Seventeen

PRESENT

The Hon`ble Dr.Justice G.JAYACHANDRAN

CRL MP(MD) No.11408 of 2016
IN
CRL OP(MD) No.16966 of 2016

THE STATE REP.BY,
THE INSPECTOR OF POLICE,
NIBCID, MADURAI,
MADURAI DISTRICT.
CRIME NO.110 OF 2016

... PETITIONER/RESPONDENT
COMPLAINANT

Vs

1 SENTHILPANDI
2 KANNAN

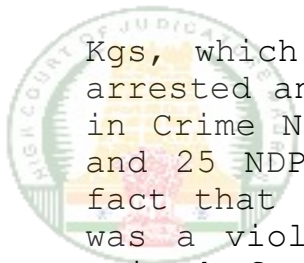
... RESPONDENTS/PETITIONERS
ACCUSED NO.1 & 2

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to cancel the bail granted to the respondents/petitioners/Accused No.1 & 2 in Crl.OP(MD)No.16966 of 2016 dated 21.10.2016 on the file of this Honourable Court in the interest of justice.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.K.V.RAJARAJAN, Government Advocate (Crl.side), for the petitioner and the respondent not appeared in person or by an advocate, the court made the following order:-

The petition for cancellation of bail granted by this Court on 21.10.2016. Notice served to the respondents/accused. The first accused wife has received notice on his behalf and the second accused has refused the notice and therefore, their names were printed in the cause list. Today, when the matter was taken up for consideration, there was no representation for the respondents/accused.

2.The learned Government Advocate(Crl.side) submitted that, based on the reliable secret information about the movement of ganja, the petitioner police kept surveillance on 26.06.2016 and intercepted a vehicle bearing Registration No.TN 59 AU 8104. The respondents herein in were in the car and after giving due notice and explaining the significance of Section 50 of the NDPS Act, the vehicle was searched and seven white colour gunny bags containing ganja was recovered. The total weight of the ganja seized was 124



Kgs, which is commercial quantity. Hence, the accused persons were arrested and vehicle was seized and case was registered against them in Crime No.110 of 2016 under Section 8(c) r/w 20(b)(ii)(c), 29(i) and 25 NDPS Act. While, so the petitioners herein suppressing the fact that recovery from the vehicles has obtained bail as if there was a violation of Section 50 of NDPS Act. Since the contraband seized from the respondents fall under commercial quantity, the court should have followed the conditions under section 37 of NDPS Act and if there is any violation of mandatory condition, it is always open to the Court to enlarge the accused on bail. In this case, due to wrong representation by the counsel petitioner and intactness of the Public Prosecutor, the Court has been mislead that there was violation of Section 50 of NDPS Act. In fact, Section 50 of the NDPS Act would be applicable only in a case of personal search of the accused and not when it is made in respect of some package like vehicle or container. This proposition of law has been well settled long back by the Hon'ble Supreme Court in State of **Himachal Pradesh Vs. Pawan Kumar** reported in **2005(4) SCC 350**. Since there is an apparent suppression of fact and misrepresentation, this court is constrained to cancel the bail granted to the respondents/accused by the order dated 21.10.2016.

3. Accordingly, this petition is allowed and the bail granted to the petitioners/accused 1 and 2 in Crl.O.P.(MD) No.16966 of 2016 dated 21.10.2016 is cancelled. The respondents/accused are directed to surrender before the Court concerned on or before 28.03.2017.

sd/-
21/03/2017

/ TRUE COPY /

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

TO

1. THE PRINCIPAL SPECIAL COURT FOR EC AND NDPS ACT CASES,
MADURAI.
2. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
3. THE INSPECTOR OF POLICE,
NIBCID, MADURAI, MADURAI DISTRICT.

ORDER
IN
CRL MP (MD) No.11408 of 2016
IN
CRL OP (MD) No.16966 of 2016
Date : 21/03/2017

Arul