

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

Friday, the Twenty Eighth day of April Two Thousand Seventeen

PRESENT

The Hon`ble Dr.Justice G.JAYACHANDRAN

CRL OP(MD) Nos.5029 and 5108 of 2017

S.PANDIYARAJAN

... PETITIONER/3rd ACCUSED in
CRL OP(MD) No.5029 of 2017

MARIYAPPAN

.... PETITIONER/ ACCUSED NO.2 in
CRL OP(MD) No.5108 of 2017

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
NIBCID SIVAGANGAI POLICE STATION,
SIVAGANGAI DISTRICT
CRIME NO. 7 OF 2017

... RESPONDENT / COMPLAINANT
IN BOTH THE PETITIONS

For Petitioner : MR.A.S.VAIGUNTH Advocate
IN CRL OP(MD) No.5029 of 2017

For Petitioner : MR.R.ANAND Advocate IN
CRL OP(MD) No.5108 of 2017

For Respondent : MR.K.V.RAJARAJAN, Govt. Advocate (Crl. Side)
in both the petitions

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

ORDER : The Court Made the following order :-

The petitioners/accused 3 and 2 who were remanded to judicial custody on 04.02.2017 for the offences under Sections 8(c) read with 22(c), 27(A), 29(1) and 25 of the NDPS Act in Crime No.7 of 2017 on the file of the respondent/Police, seek bail.

2.The petitioners were arrested for their alleged involvement in trafficking of psychotropic substance of commercial quantity. Investigation so far reveals that these petitioners along with others have conspired to procure Methamphetamine, a psychotropic substance and to transport it from Salem to Srilanka. In pursuant to the said conspiracy, they have gone to Thalaivasal at Salem and procured 2 kgs of Methamphetamine paying advance of Rs.20,000/- and promised to pay the balance amount of Rs.20,000/- after selling the drug. While they were transporting it, the Police intercepted the

petitioners and both of them were found in possession of each 1 kg of Methamphetamine.

3.The case of the petitioners is that there was grave violation of Section 50 of the NDPS Act. All the four accused were jointly put to notice of their right to be searched before the Magistrate or before the Gazetted Officer instead of individual notices. Further, there is also violation of Sections 42 and 43 of the NDPS Act and therefore, they are entitled for bail.

4.Perusal of the CD file indicates that based on a specific information, the respondent/Police has intercepted the accused and from their possession, they have recovered Methamphetamine of commercial quantity. Before search, the accused were put to notice about their right under Section 50 of the NDPS Act. It is the joint notice and that by *per se* could not be considered as non compliance of Section 50. Furthermore, investigation reveals that these petitioners have procured the prohibited psychotropic substance of commercial quantity namely, 2 kgs of Methamphetamine for onward journey to Srilanka. Since the investigation *prima facie* indicates the guilt of the accused, this Court is not inclined to entertain these petitions in view of the bar under Section 37 NDPS Act.

Hence, these Criminal Original Petitions are dismissed.

sd/-

28/04/2017

/ TRUE COPY /

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

TO

- 1 THE INSPECTOR OF POLICE
NIBCID SIVAGANGAI POLICE STATION,
SIVAGANGAI DISTRICT
- 2 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- 3 THE OFFICER IN CHARGE
SUB JAIL PUDUKOTTAI
- 4 THE SUPERINTENDENT
CENTRAL PRISON, TRICHY

ORDER

IN

CRL OP (MD) Nos.5029 and
5108 of 2017

Date :28/04/2017

SMA/PM-PN/SAR-4/05.05.2017:2P/5C

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