



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

Monday, the Fifth day of February Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP (MD) No.1698 of 2018

1 NAGANATH RAJARAM PATELE
2 PRATHEEB SEETHARAM BANSODE

... PETITIONERS/ACCUSED
NO.2 AND 3

Vs

THE STATE THROUGH
THE SUB INSPECTOR OF POLICE,
NIB, CID, MADURAI,
IN CR.225/2017,
MADURAI DISTRICT.

... RESPONDENT/ COMPLAINANT

For Petitioners : M/S.C.KANNAN Advocate

For Respondent : MR.K.SUYAMBULINGA BHARATHI,
Government Advocate (Crl. Side)

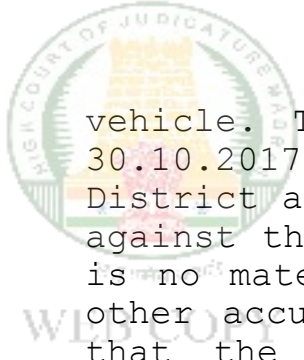
PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners /A2 and A3, who were arrested on 30.10.2017 for the offences punishable under Sections 8 (c) r/w 20 (b)(ii) (C), 29(1) and 25 of NDPS Act in Crime No.225 of 2017, on the file of the respondent police, seek bail.

2.The case of the prosecution is that on 30.10.2017, when the respondent police conducted a raid in the Usilampatti road at Kochadai, they found 160 kg of Ganja was transported in the vehicle bearing registration No.NH-12-DX-8276. Subsequently the same was recovered from the vehicle, which belongs to A1, who is the owner of the vehicle, A2 is the driver and A3 is the cleaner of the vehicle. Hence, the respondent police registered a case as against the petitioners. So, the petitioners herein were arrested and remanded to judicial custody.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have not committed any offence as alleged in this case. He further submitted that A2 is the driver and A3 is the cleaner of the



vehicle. The contraband recovered by the respondent police on 30.10.2017, but the same was produced before the learned Special District and Sessions Judge, Madurai only on 08.11.2017, which is against the provisions of NDPS Act. Further he added that there is no material to show that the petitioners conspired with the other accused to bring the contraband. He further submitted that the process of preparing Mahazar by the Investigation Officer is not in accordance with the provisions laid down under the NDPS Act and the petitioners alleged that there is a violation of Section 42 and 50 of NDPS Act, which gives rise to doubt about the alleged search and seizure.

4.The learned Government Advocate(Crl.Side) submitted that the recovered Ganja is a commercial quantity and the petitioners belong to Maharashtra State and they are habitual offenders. If they are released on bail, they will escape from the clutches of law. Hence, he vehemently opposed to grant bail to the petitioners.

5.The submissions made by the learned counsels appearing for either side are considered. The petitioners are in judicial custody from 30.10.2017. Admittedly, the petitioners are belong to the State of Maharashtra. It is alleged that during the time of occurrence, the petitioner herein along with one another accused having found possession of 160 kg of Ganja, due to which, the case has been registered against them. The learned counsel appearing for the petitioners submitted that only after recovering the contraband, the case was registered. But in the arrest memo, crime number has been mentioned which is not possible and it is against the mandatory provision of Section 42 of NDPS Act. But on perusal of CD file in a mahazar in which the property was recovered. No crime number was mentioned. So, the contention raised by the learned counsel appearing for the petitioner that the mandatory provisions are violated is not substantiated with any proof. Therefore, considering the bar under Section 37 (b) of NDPS Act and also considering the quantity of the contraband materials, which was possessed by the petitioners, this Court is not inclined to grant bail to the petitioners. Accordingly, this Criminal Original Petition is dismissed.

sd/-
05/02/2018

/ TRUE COPY /

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



1 THE SUB INSPECTOR OF POLICE
NIB, CID, MADURAI , MADURAI DISTRICT,

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

3 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI

+1. CC to M/S.C.KANNAN Advocate SR.No.2075

GJM/PM/PN/SAR-4-14.2.18-3P-5C

ORDER

IN

CRL OP(MD) No.1698 of 2018

Date :05/02/2018