



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

Friday, the Twenty Third day of November Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.19026 of 2018

MALAISELVAM @ SELVAM,

... PETITIONER / ACCUSED No.3

Vs

THE SUPERINTENDENT OF CUSTOMS,
DIVISIONAL PREVENTIVE UNIT,
RAMANATHAPURAM
IN O.R.NO.04/2017-18-DPU,
RAMANATHAPURAM DISTRICT
DATED.18.12.2017

... RESPONDENT / COMPLAINANT

For Petitioner : MR.B.SENTHIL KUMAR Advocate

For Respondent : MR.C.ARUL VADIVEL @ SEKAR
Special Public Prosecutor for Customs Cases

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

ORDER : The Court Made the following order :-

The petitioner / A3, who was arrested by the respondent on 20.12.2017, for the offences punishable under Sections 8(C) r/w.20 (c), 23, 28 and 29 of NDPS Act, 1985, in O.R.No.04/2017-18-DPU, on the file of the respondent, seeks bail.

2. The case of the prosecution is that on 22.06.2018, the respondent Police, on receipt of secret information, had went to a house, located at East side of Panakattu Street, Fisherman Village, Arukattuthurai and found two persons viz., Vetrivel / A1 and Rajendran/A2 found some pockets in Polythene cover. On seeing the police party, the said persons attempted to flee away and they caught hold by the respondent police and seized the pockets, containing 2.500 Kgs of Ganja, totally weighing 20.500 Kgs.

3. The case of the prosecution is that on 17.12.2017, 42 Kgs of Ganja was seized from one Karthick, which was owned by one Jegan. The petitioner is arrived as A3. Based on the confession of said Karthick, the respondent arrested the petitioner on 20.12.2017.



4. Mr.B.Senthil Kumar, the learned counsel appearing for the petitioner would submit that the petitioner has been arrayed as an accused, on confession of the co-accused and the petitioner has not involved in any similar offence. The confession given by the petitioner is not voluntary. Further, the petitioner is not the owner of the contraband and he is in judicial custody from 20.12.2017.

5. Mr.Arul Vadivel @ Sekar, the learned Special Public Prosecutor for Customs Cases, for the respondent filed a detailed counter contending affidavit interalia contending that there are totally four accused in this case and the petitioner is A3 and this is the 3rd bail application filed by the petitioner and the earlier two bail applications have been withdrawn. He also submitted that a specific information, received and recorded on 17.12.2017, around 50 Kgs of dry Ganja of India Origin have been secreted in the seashore of Nochiyurani and the same is to be smuggled out of India to Sri Lanka. The team of officers rushed to the spot along with two independent witnesses, kept surveillance. At about 01.00 hrs., on 18.12.2017, the officers noticed one Boat is coming from inside the sea to Nochiyurani Sea Shore. On arrival of the boat, three persons came out of their hiding in the opposite side carrying two gunny bags covered with adhesive taps on their heads and started moving. Immediately, the officers ran towards them and try to catch them. However, they could apprehend only one person. The officers detained two gunny bags and one person. The detained person viz., P.Karthick during interrogation had revealed about the others. The parcels were opened in the presence of two independent witnesses. 42 Kgs of Ganja found seized. Thereafter, the said Karthick had given a statement under Section 67 of NDPS Act, on 18.12.2017 and 19.12.2017 wherein, he confessed that he involved in smuggling with other accused. As the follow-up action, the remaining three accused, including the petitioner was arrested on 20.07.2017, produced before the Magistrate. In this case, one of the accused viz., Jesudoss is yet to be arrested. All the statutory complainace have been complied with. The petitioner herein has also given a statement under Section 67 of NDPS Act confessing to the crime.

6. Considering the facts and circumstances of the case and the rival submissions and one of the accused is absconding and charge sheet has been filed before the Spcial Court, Pudukottai, which has been taken on file as C.C.No.32 of 2018 and is pending, and the seized contraband viz., Ganja is commercial quantity, this Court is not inclined to grant bail to the petitioner. Hence, this Criminal Original Petition is dismissed.

sd/-
23/11/2018

/ TRUE COPY /



TO

1. THE SUPERINTENDENT OF CUSTOMS,
DIVISIONAL PREVENTIVE UNIT,
RAMANATHAPURAM.

2. THE OFFICER INCHARGE,
DISTRICT PRISON, RAMANATHAPURAM.

3. THE SPECIAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to Mr. MR. C. ARUL VADIVEL @ SEKAR Advocate SR.No.22166

ORDER

IN

CRL OP (MD) No.19026 of 2018

Date : 23/11/2018

AE/PN/SAR1/28.11.2018/3P/5C