



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

Tuesday, the Twentieth day of November Two Thousand Eighteen
PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.14283 of 2018

RAYEEZ

... PETITIONER /1st ACCUSED

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
NIBCID, THENI,
THENI DISTRICT
(CRIME NO.213 OF 2017)

... RESPONDENT / COMPLAINANT

For Petitioner : MR.M.RAMU 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 :-

[Orders Reserved on 14.11.2018]

The petitioner/A1, who was arrested by the respondent police on 18.12.2017, for the offences punishable under Sections 8(C) r/w.20 (b)(ii), (C) and 25 of NDPS Act, in Crime No.213 of 2017, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 18.12.2017, at about 7.15 a.m., based on a secrete information, the respondent police had conducted a vehicle check-up nearby Upparpatti Vilaku at about 9.15 a.m., the petitioner and another were intercepted in the vehicle viz., Maruthi Suzuki SX4 ZDI, bearing Registration No.KL-05-NE-5709 and recovered 7 bags of Ganja, containing each 30 Kgs.

3. Mr.M.Ramu, the learned counsel appearing for the petitioner would submit that the petitioner has been falsely implicated in this case and he has not committed any offence. The mandatory provisions under Sections 42, 50 and 52(A) of the NDPS Act, were not followed. The secret information, under Section 42 of NDPS Act, has not been sent to the higher authorities. The learned counsel, in support of his contention, has relied on the decisions of the Supreme Court in **D.K.Basu Vs. State of West bengal** reported in **(AIR 1997 SC 610)** and an yet another decision of the Supreme Court in **Sanjay Alias Bablu Alias Keja Vs. State of Gujarat** reported in **2003 SCC (Cr1.) 1534**. He also relied on an unreported decisions

of this Court in **Syed Ibrahim and Another Vs. Inspector of Police, Madurai** made in **Crl.O.P(MD)No.11384 & 11244 of 2017**, dated 08.09.2017; in **Raja and another Vs. Inspector of Police, NIB CID, Theni District**, in **Crl.O.P(MD)No.57 of 2018**, dated 30.01.2018; in **Senthilkumar Vs. Inspector of Police, NIB CID, Theni** made in **Crl.O.P (MD)No.14449 of 2018**, dated 24.10.2018 and in **Vijayakumar Vs. Inspector of Police NIB CID, Theni**, in **Crl.O.P(MD)No.15041 of 2018**, dated 24.10.2018.

4. Mr.K.Suyambulinga Bharathi, the learned Government Advocate (crl.side) appearing for the respondent, has filed a counter reiterating the contention of the FIR, seizure memo, confession and about the conditions enumerated under Section 37 of NDPS Act. He would further submit that based on the secrete information, the respondent police conducted a vehicle check-up nearby Upparpatti Vilaku at about 9.15 a.m., the petitioner and another were intercepted in the vehicle viz., Maruthi Suzuki SX4 ZDI, bearing Registration No.KL-05-NE-5709. At that time, the petitioner escaped from the car and ranaway. The co-accused and his business associates / A2 was arrested at the scene of occurrence. In the scene of occurrence, 7 bags containing 30 Kgs of Kanga. totally weighing 210 Kgs of Ganja have been seized. The petitioner was arrested after sustained efforts on 13.03.2018. Further it is submitted that investigation has been completed in this case and charge sheet has been filed in C.C.No.166 of 2018, on 30.06.2018 and the case is pending trial. Further, the seizure of 210 Kgs of Ganja is much more than the commercial quantity.

5. On a perusal of the documents, apparently there is no violation of the statutory procedures. On perusal of the records would clearly show that mandatory provisions of NDPS Act, has been strictly complied with. Considering the seizure of 210 Kgs contraband viz., Ganja, worth about to Rs.21,00,000/-, which is more than the commercial quantity and also considering the fact that investigation in this case has been completed and charge sheet has been filed in C.C.No.166 of 2018, on 30.06.2018 and the case is pending trial, this Court is not inclined to grant bail to the petitioner. The Judgments relied on by the petitioner, is not applicable to the facts of the present case.

6. In the result, this Criminal Original Petition stands dismissed.

sd/-
20/11/2018

/ TRUE COPY /



TO

1 THE INSPECTOR OF POLICE
NIBCID, THENI,
THENI DISTRICT.

2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

ORDER

IN

CRL OP(MD) No.14283 of 2018

Date :20/11/2018

AE/PN/SAR1/28.11.2018/3P/4C