



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

Tuesday, the Fourth day of December Two Thousand Eighteen

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PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.14151 of 2018

PAWAS

... PETITIONER / SOLE ACCUSED

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
NIBCID, DINDIGUL, DINDIGUL DISTRICT.
IN CRIME NO. 87 OF 2018

... RESPONDENT / COMPLAINANT

For Petitioner : MR.M.RAMU Advocate

For Respondent : MR.S.CHANDRASEKAR, Additional Public Prosecutor

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

ORDER : The Court Made the following order :-

The petitioner, who is a sole accused, was arrested by the respondent police on 27.07.2018, for the offences punishable under Sections 8(c) r/w. 20(b)(ii)(C) and 25 of NDPS Act, in Crime No.87 of 2018, on the file of the respondent Police, seeks bail.

2. The case of the prosecution is that on 27.06.2018, at about 6.00 a.m., based on a secrete information, the respondent Police conducted a vehicle check up near Anjali Roundana, Trichy to Madurai Bye-pass . At about 9.30 a.m., the team found a white colour Swift VDI Car, bearing Registration No.AP-31-CP-8399, which the informer indicated, intercepted the vehicle and recovered two white colour gunny bags, each containing 30 Kgs of Dry Ganja, worth about to Rs.6,00,000/- and arrested the accused.

3. The learned counsel appearing for the petitioner would submit that the respondent Police had not followed the statutory provisions contained under the NDPS Act. He also submitted that the time shown in the mahazar, arrest card and arrest memo are prior to the time of FIR. Hence, the accused have been falsely implicated in this case. The learned counsel, in support of his contention, has relied on a decision of the Hon'ble Apex Court in **Union of India Vs. Mohanlal and Another** reported in (2016) 1 SCC (Cri) 864 and an



yet another decision of Apex Court in **Sukhdev Singh Vs. State of Haryana** reported in **(2013) 2 MLJ 212** and also an unreported decision of this Court made in **Cr1.O.P (MD) No.2708 of 2018 (Mallappagari Srikanth Reddy Vs. Inspector of Police, NBI CID, Dindigul, dated 13.03.2018.**

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4. The learned Additional Public Prosecutor appearing for the respondent, has filed a detailed counter contending interalia that on 27.06.2018, at about 6.00 a.m., based on a secrete information, the respondent Police conducted a vehicle check near Anjali Roundana, Trichy to Madurai Bye-pass . At about 9.30 a.m., the team found a white colour Swift VDI Car, bearing Registration No.AP-31-CP-8399, which the informer indicated, intercepted the vehicle and recovered two white colour gunny bags, each containing 30 Kgs of Dry Ganja, worth about to Rs.6,00,000/- and arrested the accused, after completing the formalities under the provision of NDPS Act. He would further submit that there is a specific bar being incorporated in Section 37 of NDPS Act, for granting bail to the accused persons, who have indulged in possessing, transporting any narcotic substances in commercial quantity. Therefore, he strongly objected for grant of bail to the petitioner.

5. I have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent and also perused the materials available on record.

6. On perusal of the records would show that in this case, 60 Kgs of Ganja had been seized from the accused, which is a commercial quantity. The contention of the petitioner with regard to discrepancies are the points to be decided during trial. In view of the factual aspects of the above case, this Court finds that the petitioner is in possession and the presumption as per the Act is against him. Further, the decisions relied by the counsel for the petitioner are not applicable to the facts of the present case. Hence, this Court is not inclined to grant bail to the petitioner.

7. In the result, this Criminal Original Petition is dismissed.

sd/-
04/12/2018

/ TRUE COPY /

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

TO

1 THE INSPECTOR OF POLICE,
<https://hcservices.ecourts.gov.in/hcservices/>
NIBCID, DINDIGUL, DINDIGUL 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.14151 of 2018

Date :04/12/2018

JM/VR MMS/SAR 2/12.12.2018/3P/4C