



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.14282 of 2018

VATTEPU NARESH

... PETITIONER /SOLE ACCUSED

Vs

THE STATE REP BY
THE INSPECTOR OF POLICE
NIBCID, THENI,
THENI DISTRICT.
Crime No. 76 of 2018

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.M.RAMU Advocate

For Respondent : Mr.K.SUYAMBULINGA BHARATHI
Govt. Advocate (CrI. Side)

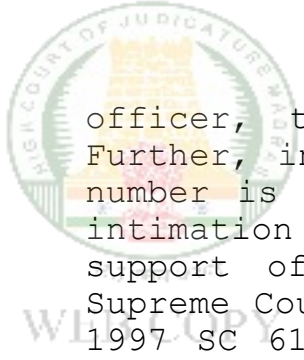
PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who was arrested by the respondent police on 19.05.2018, for the offences punishable under Sections 8(C) r/w.20 (b)(ii), (C) and 25 of NDPS Act, in Crime No.76 of 2018, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 19.05.2018, at about 6.30 a.m., based on secret information, the respondent Police conducted a vehicle check-up nearby Madhurapurai Power Station at Periyakulam to Theni Road, and at about 7.20 a.m., the respondent intercepted a vehicle viz. Toyota Edios, bearing Registration No.AP-10-AV-2470 and recovered 4 bags each containing 25 Kgs of Ganja and 2 bags, each containing 20 kgs of Ganja.

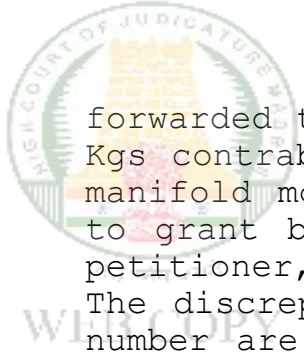
3. Mr.M.Ramu, the learned counsel appearing for the petitioner would submit that the petitioner has been falsely implicated in this case and he has not committed any offence. The mandatory provisions under Sections 42, 50 and 52(A) of the NDPS Act, was not followed. Further, the FIR clearly shows that the respondent Police created the false case. The secret information, under Section 42 of NDPS Act, has not been sent to the higher authorities. Search was not conducted in the presence of independent witness or gazetted



officer, though the place of occurrence was at busy locality. Further, in the document, which came to place of occurrence, crime number is found. The petitioner had filed a seizure memo, arrest intimation and confession statement. 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 (Crl.) 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. It is further submitted that on 19.05.2018, the respondent had received the information about the above offence and based on the information, the respondent had gone in their official vehicle along with all necessary equipments and waiting near Madhurapuri Power Station at Periyakulam to Theni Road. On identification of the informer, the respondent police intercepted the vehicle viz., Toyota Edios Car, bearing Reg.No.AP-10.2470, which was driven by the petitioner. Disclosing about their identify and on enquiry, the respondent came to know that the driver is Vatteppu Naresh S/o.Venkataiah. After completing all the formalities, obtained a consent letter and searched the car and found six bags of Ganja (4 x 25Kgs and 2 x 20 Kgs), totally weighing 140 Kgs of Ganja and seized the contraband, car, arrested the accused and registered the case. Thereafter, produced the petitioner along with the seized contraband before the learned Judicial Magistrate, Theni and subsequently, the contraband was produced before the Principal Sessions Court, Madurai in R.P.No.277 of 2018, dated 23.05.2018. It is further stated that in the confession, the accused had admitted his offence that he purchased the large quantity of Ganja with an intention to be sold at Kerala. Further, the seizure of 140 Kgs of Ganja is much more than the commercial quantity. The petitioner is ailing from Telungana and if he is granted bail, he would escape from the clutches of law.

5. On perusal of the documents, apparently there is no violation of the statutory procedures. On perusal of Case Diary it is found that the signature of the petitioner for search, reason of his arrest, seizure memo and on his physical verification are in accordance with Section 42 of the said Act, and therefore, the contention that it is a case of non-compliance of Section 42 of the NDPS Act, cannot be accepted. Further, the contraband have been



forwarded to the Court immediately. Considering the seizure of 140 Kgs contraband viz., Ganja, worth about to Rs.14,00,000/-, which is manifold more than commercial quantity, this Court is not inclined to grant bail to the petitioner. The Judgments relied on by the petitioner, are not applicable to the facts of the present case. The discrepancy with regard to the document, about timing and crime number are concerned, it is for the petitioner to raise the same during trial.

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

sd/-
20/11/2018

/ TRUE COPY /

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

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.14282 of 2018
Date : 20/11/2018

MSI/PN/SAR.4/28.11.2018/3P/4C