



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

Wednesday, the Thirty First day of October Two Thousand Eighteen

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PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD) No.14343 of 2018

RATHINAKUMAR

... PETITIONER/ ACCUSED No. 1

Vs

STATE REP BY ITS
THE INSPECTOR OF POLICE
NIB CID, THOOTHUKUDI DISTRICT
CR NO.88 OF 2017

... RESPONDENT/ COMPLAINANT

For Petitioner : MR.M.JEGADEESH PANDIAN Advocate

For Respondent : MR.V.NEELAKANDAN, ADDITIONAL PUBLIC PROSECUTOR

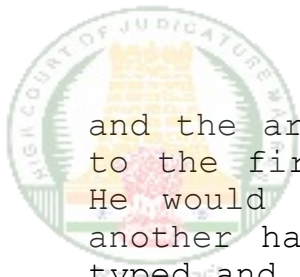
PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner/A1, who was arrested and remanded to judicial custody on 28.12.2017 for the offence under Sections 8(c) read with 20(b)(ii) (C) and 25 of N.D.P.S. Act, 1985, in crime No.88 of 2017 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 27.12.2017 at about 14.20 hours, based on the secret information, the respondent along with police party proceeded near Thoothukudi to Tiruchendur Highways, Tiruchendur Road junction and the found a TATA Indico LS Gray color car and surrounded the vehicle. When they intercepted the vehicle and on search, they found two contains 40 kgs of ganja each and one bag contains 30 kg of ganja, totally 110 kgs of ganja and they were seized and a case has been registered.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. The respondent police did not follow the mandatory provisions under Sections 42, 50 and 52(A) of N.D.P.S. Act. He would further contend that the police recovered the contraband from the petitioner at about 16.30 hours, however, the first information report has been registered at about 21.00 hours



and the arrest memo and the search memo, which were prepared prior to the first information report contains the crime No.88 of 2017. He would further contend that before search, the petitioner and another had given consent letter, in which, all the questions are typed and answers also in the form of typewritten. Therefore, it is clear that completely a false case foisted as against the petitioner for statistical purpose. He would further contend that the petitioner was arrested and remanded to judicial custody on 28.12.2017. Therefore, he prayed for bail.

4.The learned Government Advocate (criminal side) would submit by way of filing counter that the petitioner and another were in possession of 110 kgs of ganga, which is a commercial quantity. There is no procedural lapses on the part of the respondent and the petitioner hails from Andhra Pradesh and he does not know Tamil. In this case, they have filed the charge sheet and the same was taken cognizance in C.C.No.174 of 2018 and if the petitioner is let out on bail, he will not co-operate with the trial and hence, he vehemently prayed for dismissal of the petition.

5.It is seen from the search memo arrest intimation and memo, it was recorded at 16.30 hours and it contains crime No.88/2017, whereas the first information was recorded at about 21.00 hours. It is also curious note that the consent letter given by the petitioner and another for search is in the form of typewritten and the answer is also in a typewritten form. The contraband seized from the petitioner is commercial quantity. Further, the petitioner is not having any previous case. Further, under Section 37 of NDPS Act, 1995, this Court satisfied that there are reasonable grounds for believing that the petitioner is not not guilty of the alleged offence. In this case, charge sheet has been laid and the same was taken cognizance in C.C.No.174 of 2018 on the file of the Principal Special court for EC and NDPS Act Cases, Madurai. Therefore, this Court is inclined to grant bail to the petitioner.

6.Accordingly, the petitioner is ordered to be released on bail, subject to the following conditions:

(i)the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties, each for a like sum to the satisfaction of the learned Principal Special Court for EC and NDPS Act, Cases, Madurai;

(ii) the petitioner shall appear before the respondent police daily at 10.30 a.m. and 5.30 p.m. until further orders.

sd/-
31/10/2018

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



TO

1 THE PRINCIPAL SPECIAL COURT
FOR EC AND NDPS CASES,
MADURAI

2 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI

3 THE INSPECTOR OF POLICE
NIB CID, THOOTHUKUDI DISTRICT

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

+1. CC to MR.M.JEGADEESH PANDIAN Advocate SR.No.20730

ORDER

IN

CRL OP(MD) No.14343 of 2018

Date :31/10/2018

MSI/PN/SAR-IV/31.10.2018-3P/6C