



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

Wednesday, the Twenty Fourth day of October Two Thousand Eighteen

PRESENT

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

CRL OP(MD) No.14634 of 2018

KOTTAICHAMY

... PETITIONER / ACCUSED NO.2

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
NIB CID, THENI.
CRIME NO.184 OF 2017

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.M.JEGADEESH PANDIAN Advocate

For Respondent : Mr.A.P.G.OHM CHAIRMA PRABHU,
Govt. Advocate (Crl. Side)

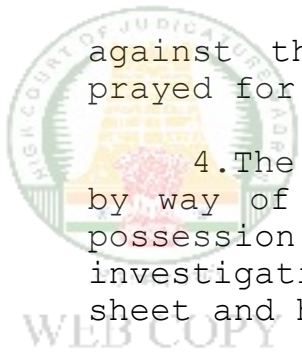
PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner/A2, who was arrested and remanded to judicial custody on 02.11.2017 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.184 of 2017 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 02.11.2017 at about 10.00 hours, on secret information, the respondent along with police party conducted vehicle checkup near Devathanapatti to Vaigai Dam Road near Periyanki Amman kovil opposite, at about 11.30 hours, the respondent police intercepted the vehicle viz., TATA Indigo ECS Silver Color Car, and on search, they found 7 white colour polythene bags containing each 180 kg of ganja in six pockets 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 confession statement of the petitioners were recorded from 15.00 hours to 15.45 hours and they returned to police station at 17.30 hours. Whereas, in the arrest card prepared at the time of 16.45 hours on 02.11.2017, crime number has been reflected and also in the arrest memo. He would further submit that the confession statement has been recorded in typewritten. Therefore, it is completely a false case foisted as



against the petitioner for statistical purpose. 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 180 kgs of ganga, which is a commercial quantity. The investigation is pending and the respondent is yet to file charge sheet and he prayed for dismissal of the petition.

5.It is seen from the arrest intimation and memo, it was recorded at 16.45 hours and it contains crime No.184/2017. 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 petitioners are not guilty of the alleged offence. Perusal of the confession statement would show that the same has been recorded in typewritten, when there is no instrument available in the place of occurrence to record the confession statement in typewriter. 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. until further orders.

sd/-
24/10/2018

/ TRUE COPY /

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

TO

1. THE PRINCIPAL SPECIAL COURT FOR EC AND NDPS ACT CASES, MADURAI.
2. THE INSPECTOR OF POLICE, NIB CID, THENI.
3. THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
4. THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to MR.M.JEGADEESH PANDIAN Advocate SR.No.20175

ORDER IN
CRL OP(MD) No.14634 of 2018
Date :24/10/2018