



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

Monday, the Twenty Sixth day of November Two Thousand Eighteen

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PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.14640 of 2018

J.PUTHU RAJA

... PETITIONER / ACCUSED NO.1

Vs

STATE THROUGH
THE INSPECTOR OF POLICE,
UTHAPPANAICKANUR POLICE STATION,
MADURAI DISTRICT.
(IN CRIME NO.41/2018)

... RESPONDENT / COMPLAINANT

For Petitioner : MR.J.SELVAM Advocate

For Respondent : MR.K.SUYAMBULINGA BHARATHI,
Govt. Advocate (Crl. Side)

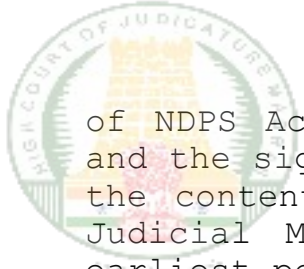
PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner / A1, who was arrested by the respondent Police on 20.02.2017, for the offences punishable under Sections 8(c) r/w.20(b)(ii)(C) and 25 of NDPS Act, 1985, in Crime No.41 of 2018, on the file of the respondent, seeks bail.

2. The case of the prosecution is that on 20.02.2018, on the basis of secret information, the respondent police and his team conducted vehicle check-up at Uthappanaickanur - Anaipatti Road, near Kalyanipatti Division at 8.00 hrs. At that time, two persons came in a motor bike with gunny bags and on seeing the police party, they tried to escape. The police surrounded them and on enquiry, they came to know that the rider of the vehicle is Puthuraja / A1 / the petitioner herein and the pillion rider is Ravi @ Ravichandran and recovered totally 90.000 Kgs of Ganja

3. Mr.J.Selvam, the learned counsel appearing for the petitioner would submit that there was no concealed contraband recovered from the petitioner and there was no disclosure statement leading to recovery of contraband from the petitioner. He would further submit that mere recovery of object in a absence of disclosure statement, is inadmissible, as envisaged under Section 27



of NDPS Act. Further, he had reiterated his confession statement and the signature has been forcibly obtained and he was not aware of the contents of the same, when he was produced before the learned Judicial Magistrate at 9.45 p.m., on 20.02.2018. Thus, at the earliest point of time, the petitioner had retracted his confession. The learned counsel, in support of his contention, has relied on the Judgment of the Hon'ble Supreme Court in State of **Punjab Vs. Balbir Singh** reported in **(1194 (3) SCC 299)**.

4. Mr.K.Suyambulinga Bharathi, learned Government Advocate (crl.side) appearing for the respondent would submit that on 20.02.2018, on the basis of secret information, the respondent police and his team conducted vehicle check-up at Uthappanaickanur - Anaipatti Road, near Kalyanipatti Division at 8.00 hrs. At that time, two persons came in a motor bike with gunny bags and on seeing the police party, they tried to escape. The police surrounded them and on enquiry, they came to know that the rider of the vehicle is Puthuraja / A1 / the petitioner herein and the pillion rider is Ravi @ Ravichandran. On further enquiry, the said persons informed that they had been carrying Ganja in the bags and after following the legal formalities and obtaining signature in the concerned Forms, the bags were checked and Ganja was found. Thereafter, the accused were arrested and confession statements were recorded. The seized contraband were marked giving identification numbers, sampels were taken and thereafter, re-sealed the contraband and the two wheeler were seized. Based on the confession, all the accused apprehended. FIR came to be registered at 2.30 p.m., and the accused were produced before the Judicial Magistrate No.1, Usilampatti on the same day. The total contraband seized is 90 Kgs, which is of commercial quantity. He also submitted that the earlier bail petition filed by the petitioner inm CrI.O.P.No.8810 of 2018 was dismissed as withdrawn on 14.06.2018. It is further submitted that A1 in this case viz., Ravi @ Ravichahndran was released on bail by this Court in CrI.O.P.(MD)No.8729 of 2018, dated 23.05.2018. Thereafter, the respondent had filed CrI.M.P.No.4155 of 2018 to cancel the bail granted to A2 and the same was allowed vide order dated 12.06.2018. A2 knowing about the same, had not surrendered and absconded himself.

5. The points raised that presumptions can be rebutted only during evidence and not merely saying that no document has been produced before the court during the bail stage regarding the compliance for formalities. Further, the decision reported in **(1194 (3) SCC 299)** (cited supra) relied on by the counsel for the petitioner is not applicable to the facts of the present case.

6. Considering the facts and circumstances of the case and also the seized contraband is 90 Kgs, which is manifold more than the commercial quantity, and one of the accused has absconded himself and charge sheet has been filed before the Principal Special Court



for NDPS Act, Madurai in C.C.No.117 of 2018, this Court is not inclined to grant bail to the petitioner. Hence, this Criminal Original Petition is dismissed.

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sd/-
26/11/2018

/ TRUE COPY /

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

TO

1. THE JUDICIAL MAGISTRATE NO.1,
USILAMPATTI
 2. DO THRO' THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT
 3. THE INSPECTOR OF POLICE
UTHAPPANAICKANUR POLICE STATION,
MADURAI DISTRICT.
 4. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI
 5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI
- +1. CC to MR.J.SELVAM Advocate SR.No.22095

ORDER
IN
CRL OP(MD) No.14640 of 2018
Date :26/11/2018

MK/PN/SAR 1/30.11.2018/3P/7C