



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

Tuesday, the Twenty Seventh day of November Two Thousand Eighteen

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PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.17097 of 2018 AND 19885 of 2018

1. RAJKUMAR
2. SAKTHIVEL

... PETITIONERS / ACCUSED NOS.A3&A4
IN CRL OP(MD) No.17097 of 2018

1. RAMESH KUMAR
2. MAHENDRAN

... PETITIONERS / ACCUSED NOS.A1&A2
IN CRL OP(MD) No.19885 of 2018

Vs

STATE THROUGH
THE INSPECTOR OF POLICE,
NIBCID, NAGAPATTINAM POLICE STATION,
NAGAPATTINAM,
THANJAVUR DISTRICT
(CRIME NO. 39 OF 2018)

... RESPONDENT / COMPLAINANT
IN BOTH PETITIONS

For Petitioners : MR.K.P.S.PALANIVEL RAJAN for MR.K.PRABAKARAN,
Advocate for both petitions.

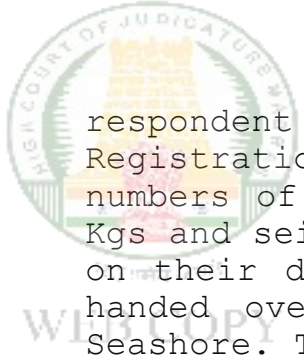
For Respondent : S.CHANDRASEKAR, Additional Public Prosecutor
Govt. Advocate (Crl. Side) for both petitions.

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

ORDER : The Court Made the following order :-

The petitioners / A3, A4 and A1 & A2 respectively in CRL.O.P.Nos.17097 & 19885 of 2018 were arrested by the respondent police on 04.08.2018, for the offences punishable under Sections 8 (c) r/w. 20(b)(ii)(c), 25 of NDPS Act and Section 3(a), 6(a) of Passport (Entry into India) Rule 1950 and Section 14 of Foreigners Act, 1946, in Crime No.39 of 2018, on the file of the respondent Police, seek bail.

2. The case of the prosecution is that on 03.08.2018, on receipt of secret information, the respondent Police along with her party reached the Thopur Check Post and conducted the vehicle check up. At that time, on the identification by the informer, the



respondent Police intercepted the vehicle viz., TATA ACE, bearing Registration No.TN-51-H-5416 and on search found concealed six numbers of gunny bags, each contained 29 Kgs of Ganja, totally 174 Kgs and seized the contraband and arrested the accused. Thereafter, on their disclosure, it was known that the consignment were to be handed over to the other accused Muneeswaran in Periyakunthagai Seashore. The respondent Police had gone to that place at about 4.00 a.m., and found three persons awaiting to receive the consignment and on seeing the respondent, the accused attempted to ran away of whom two persons were apprehended, they are A3 and A4.

3.Mr.K.Palanivelrajan, representing for Mr.K.Prabhakaran, the learned counsel for the petitioners, would submit that the accused were arrested on 03.08.2018 and were produced before the learned Judicial Magistrate No.I, Vedaranyam, on 05.08.2018, which is beyond 24 Hrs. He further submitted that the petitioners are falsely implicated in the above case. With regard to A3 & A4 are concerned, they are fishermen of Sri Lanka and they drifted into Indian seashore for fishing and they have been arrested on suspicion and they are all innocent and prayed for bail in favour of the petitioners.

4. Mr.S.Chandrasekaran, the learned Additional Government Pleader appearing for the respondent, filed a counter and would submit that there are totally five accused in this case. On 03.08.2018, on receipt of secret information, and on informing the superior officers, and making entry in the general diary, the respondent Police along with her party reached the Thopur Check Post and conducted the vehicle check up. At that time, on identification by the informer, the respondent Police intercepted the vehicle viz., TATA ACE, bearing Registration No.TN-51-H-5416 and on search found concealed six numbers of gunny bags, each contained 29 Kgs of Ganja, totally 174 Kgs and seized the contraband and arrested the accused. Thereafter, on their disclosure, it was known that the consignment were to be handed over to the other accused viz., Muneeswaran in Periyakunthagai Seashore. The respondent Police had gone to that place at about 4.00 a.m., and found three persons awaiting to receive the consignment and on seeing the respondent, the accused attempted to ran away of which two persons were apprehended, they are A3 and A4 and a fibre boat was seized. The TATA Ace vehicle belongs to A1 and fibre boat belongs to A3. The said Muneeswaran / A5 is still absconding. The entire operation seems to be a well planned one. Thereafter, they seized the contraband and the vehicle and the accused were produced before the Magistrate. He also submitted that all the mandatory provisions have been followed and huge consignment of 174 Kgs of Gaja, which is more than commercial quantity, which was planned to be smuggled out to Sri Lanka, were seized in this case and A5 is the Kingpin in this case, who is yet to be apprehended and hence, he strongly objected to grant of bail to the petitioners.

<https://hcservices.ecourts.gov.in/hcservices/>

5. I have heard the submissions made by the learned counsels



appearing on either side and perused the materials available on record.

6. Considering the rival submissions made on either side and taking into account the seizure of 174 Kgs of contraband viz., Ganja, which is more than the commercial quantity and one of the accused / A5 is yet to be secured, smuggling of narcotic to a foreign country is an international ramification, which is very serious in nature, this Court is not inclined to grant bail to the petitioners. Hence, the Criminal Original Petitions are dismissed.

sd/-
27/11/2018

/ TRUE COPY /

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

TO

1. THE INSPECTOR OF POLICE
NIBCID, NAGAPATTINAM POLICE STATION,
NAGAPATTINAM, THANJAVUR DT.,
2. THE SUPERINTENDENT,
PULAL JAIL, CHENNAI
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to MR.K.PRABAKARAN Advocate SR.No.22297

ORDER
IN
CRL.O.P.Nos.17097 & 19885 of 2018
Date :27/11/2018

MK/VR MMS/SAR 2/05.12.2018/3P/5C