

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.05.2020

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.3587 of 2020

Ayyampillai,
S/o.Periyakaruppan,
East Street,
Thiruvathauru,
Melur Taluk,
Madurai

... Petitioner

State Rep. by
The Inspector of Police,
NIB CID Police Station,
Kancheepuram
Cr. No.6/2019

Vs.

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail pending investigation in Crime No.6 of 2019 on the file of the respondent police.

For Petitioner : Mr.Kathirvelu,
Senior Counsel,
for Mr.Na.Manimaran

For Respondent : Mr.M.Mohammed Riyaz,
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 20.10.2019 for the offence punishable under Sections 8(c) r/w 20(b) (ii) (C) 25 and 29 (i) (a) of NDPS Act in Crime No.6 of 2019 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on receipt of secret information, the respondent conducted vehicle check-up at Nellore Chennai Main Road nearby Yelavur Tollgate. At the time of check-up, one unknown person ran away, while stopping the car by the respondent. When the respondent searched vehicle, they found six numbers of plastic bag bearing each 25 kg of contraband. Thereafter they registered case in Cr.No.6 of 2019 for the offences under Sections 8(c) r/w 20(b) (ii) (C) 25 and 29 (i) (a) of NDPS Act.

3. Mr.Kathirvelu, learned Senior Counsel appearing for the petitioner would submit that respondent conducted search at the place of

Nellore Chennai Main Road nearby Yelavur Tollgate without any independent witnesses. The respondent also received signature from the petitioner in the typed form copy at the place of occurrence itself. Now they completed investigation and also laid final report and the same has been taken cognizance in CC.No.137 of 2019 on the file of the Special Principal District Judge, EC and NDPS Act, Chennai. He further submitted that only on the confession of the first accused, the petitioner has been falsely implicated as accused. Except the confession statement of the first accused, no other material is there to connect the petitioner in this crime. Therefore, the respondent failed to follow the mandatory procedures as contemplated in the Act and registered the case as against the petitioner. Therefore, the petitioner is entitled to get relief under Section 37 of NDPS Act.

4. The learned Additional Public Prosecutor (Crl.Side) filed status report and submitted that there are totally two accused, in which the petitioner is arrayed as A2, and there are so many materials to implicate the petitioner as accused other than the confession statement of the first accused. Further he submitted that the points raised by the learned Senior Counsel have to be considered only during the trial.

Therefore there is a bar under Section 37 of NDPS Act to release the petitioner on bail, when the contraband weighed 150 kg.

5. He further submitted that the petitioner/ accused had involved previously in the following cases:

- (i) Thallakulam PS Cr.No. 1520/2017 u/s 8 (c) r/w. 20(b) (ii) (C) of NDPS Act 1985
- (ii) Sellur PS Cr.No. 1589/2017 u/s 8 (c) r/w 20(b) (ii) (C) of NDPS Act 1985
- (iii) Sellur PS Cr.No. 2031/2017 u/s 8 (c) r/w. 20(b) (ii) (C) of NDPS Act 1985
- (iv) Madurai NIB CID UNIT Cr.No.75/2019 u/s 8 (c) r/w. 20(b) (ii) (C) of NDPS Act 1985.

6. He further submitted that now the petitioner / accused filed this present petition seeking bail before this Court, only with an intention to escape from the clutches of law and also to drag on the investigation proceedings. Also, now he filed petition in the medical grounds that he was admitted in Rajaji Hospital, Madurai due to Cardiology issues. On 19.04.2020 he was admitted in Hospital from Central Prison, Madurai and given treatment in Rajaji Hospital under the supervision of Jail authority and he was discharged from Hospital on 26.04.2020 AN. Again he was detained in Central Prison, Madurai.

7. He further submitted that if the petitioner/accused is let out on bail, he may be absconded and every possibility that he will indulge in similar kinds of offences in future also. Further, he will tamper the evidences and threaten the witnesses. Further, there is every possibility that he will not co-operate for the trial proceedings, since the trial is in a crucial stage, Hence, he strongly objected to grant of bail.

8. Heard, the learned Senior Counsel for the petitioner, and the learned Additional Public Prosecutor for the respondent.

9. There are totally two accused, and the petitioner is arrayed as A2. On the secret information received, the respondent conducted search on a vehicle at Nellore Chennai Main Road nearby Yelavur Tollgate at about 9.00 a.m., which was driven by the accused persons in a vehicle, Innova silver colour car bearing registration No.TN 03 L 1146 and seized contraband in six numbers of plastic bag weighing 25 kg each. Thereafter they registered case in Crime No.6 of 2019 for the offences under Section 8(c) r/w 20(b) (ii) (C) 25 and 29 (i) (a) of NDPS Act. The learned Senior Counsel submitted that at the time of conducting search on the vehicle, no independent witness was there and the mandatory provisions as contemplated under the Act have not been

followed by the respondent. The learned Additional Public Prosecutor submitted that mandatory provisions as contemplated under the Act have been duly complied with and all the procedures had been followed by the respondent. Except the confession statement, there are other materials to connect the petitioner in this crime.

10. It is also seen from the records that the quantum of contraband is a commercial one and there is a categorical bar under Section 37 of NDPS Act. Further, the petitioner failed to satisfy this Court to get over the bar under Section 37 of NDPS Act.

11. Therefore, this Court is not inclined to grant bail to the petitioner, and therefore, this criminal original petition is dismissed.

04.05.2020

Index : Yes/No

Internet : Yes/No

Speaking order/Non-speaking order

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To

1. The Principal Special Judge
(for EC& NDPS Act Cases),
Chennai.
2. The Inspector of Police,
NIB CID Police Station,
Kancheepuram
3. The Public Prosecutor,
High Court, Madras.

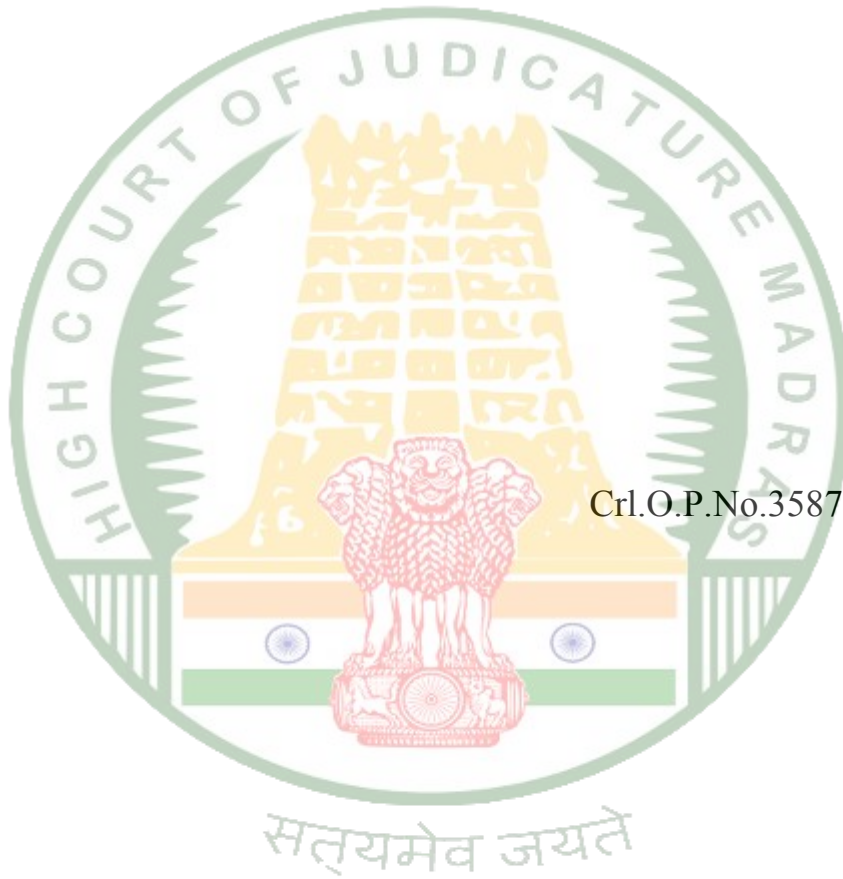


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Crl.A.No.216 of 2020

G.K.ILANTHIRAIYAN, J.

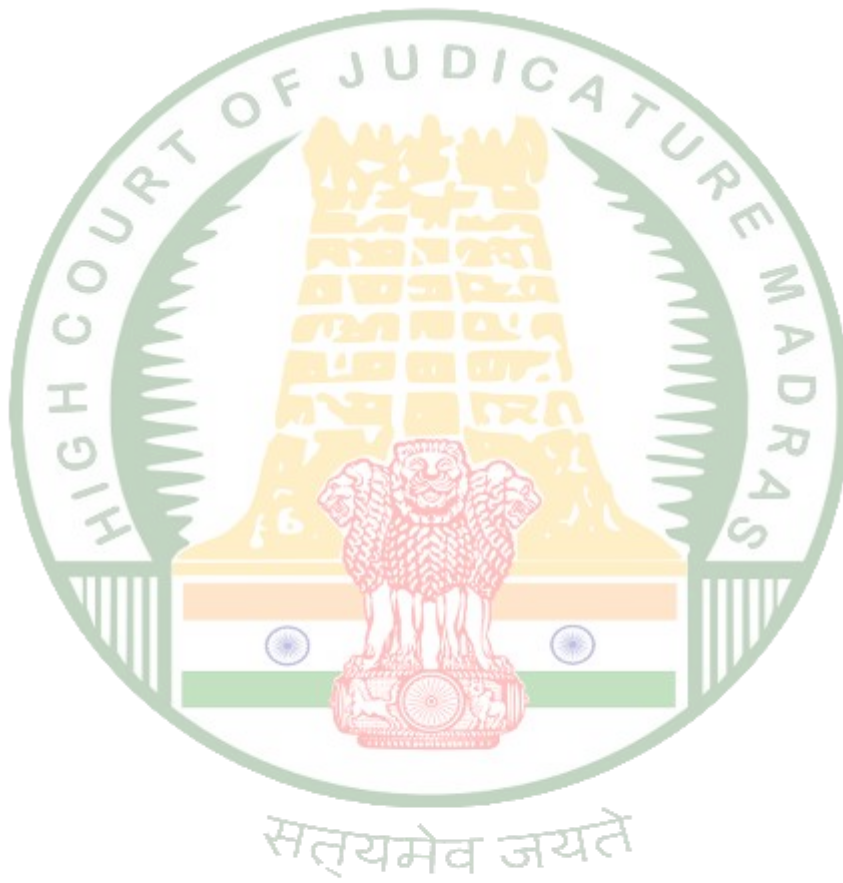
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