

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.05.2020

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P.No.7299 of 2020

Madhan

... Petitioner

Vs.

State Rep. By

... Respondent

The Inspector of Police,
NIB, CID, Kancheepuram,
Kancheepuram District.
Cr.No.31 of 2019.

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail pending investigation in Crime No.31 of 2019 on the file of the respondent police.

For Petitioner : Mr.G.Magesh Kumar

For Respondent : Mr.Mohammed Riyaz,

Additional Public Prosecutor

सत्यमेव जयते

ORDER

The petitioner, who was arrested and remanded to judicial custody on 19.07.2019 for the offence punishable under Sections 8(c) r/w.20(b)(ii)(C), 25, 29(1) of NDPS Act in Crime No.31 of 2019 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 19.07.2019, based on a secret information, the respondent Police intercepted the petitioner while the petitioner and two others were going in a car bearing registration No.PY02K 7997, white HYUNDAI Verna and thereafter on a search made in the car, they found that the petitioner and two others were in possession of 110 Kgs of Ganja illegally. Thereafter, they arrested the accused persons and registered a case.

3. The learned counsel appearing for the petitioner would submit that the petitioner has not involved in the above alleged offence and he is no way connected with the offence as alleged by the prosecution. He would submit that the mandatory provisions as contemplated under the Act are not followed by the respondent Police. He further submit that in fact the petitioner was detained under GOONDAS Act and subsequently his detention order was quashed by this Court in HCP.No.2359 of 2019 by an order dated 07.03.2020. After arrest of the petitioner, the respondent prepared seizure mahazar, inspection memo, arrest memo and special report. Further he submits that the petitioner is in judicial custody for the past ten months and hence, he seeks bail for the petitioner.

4. The learned Additional Public Prosecutor submitted that based on the secret information, the petitioner was intercepted by the respondent. Totally, there are three accused persons. Further, the first accused is still absconding and could not be traced till date. He further submitted that investigation has been completed and filed final report and now the case is pending for trial in C.C.No.11 of 2020 on the file of Principal Sessions Court (EC and NDPS Act cases), Chennai, and charged are yet to be framed since the first accused is still absconding. Therefore, he vehemently opposed for granting bail to the petitioner.

5. Heard both sides and perused the materials available on record.

6. It is seen that the petitioner along with two others were arrested for illegal possession of 110 kgs of Ganja. The petitioner failed to make any case to overcome the bar contemplated under Section 37 of NDPS Act to seek bail. The seized contraband is of commercial quantity and as such the petitioner is not entitled for any bail unless he makes out a case to overcome the bar under Section 37 of NDPS Act. Therefore, this Court is not inclined to grant bail to the petitioner.

7. Accordingly, this Criminal Original Petition is dismissed.

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-sd/-
08/05/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE PRINCIPAL SPECIAL JUDGE,
PRINCIPAL SPECIAL COURT (EC & NDPS ACT CASES),
CHENNAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
NIB, CID, KANCHEEPURAM,
KANCHEEPURAM DISTRICT.

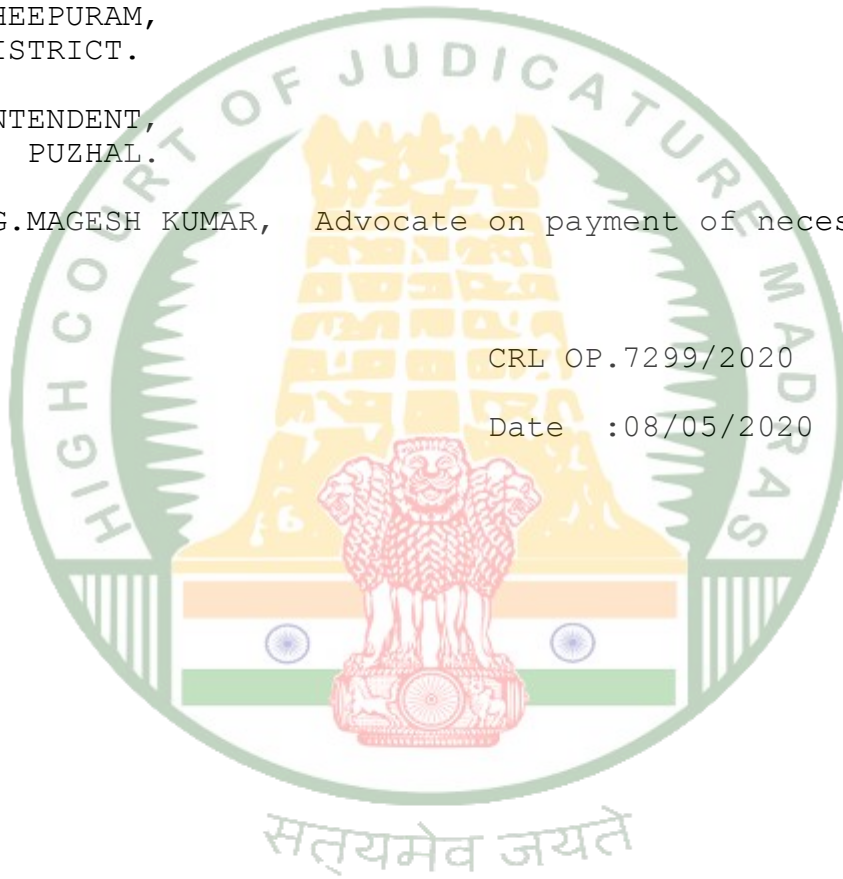
4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

CC to MR.G.MAGESH KUMAR, Advocate on payment of necessary
charges

CRL OP.7299/2020

Date :08/05/2020

TA-15/06/2020



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