

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.05.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No. 7747 of 2020

1. M.Shanmuga Priya,
W/o.Murugan,
Door No.109, West 4th Street,
Pudukottai.

2. M.A.Srimanikandan,
S/o.Ashokan,
Door No.M/71, Poonga Nagar,
Raja Gopalapuram, Pudukottai.

... Petitioners/Accused Nos.1 & 2

Vs.

State rep.by
The Intelligence Officer,
Narcotics Control Bureau,
Chennai Zonal Unit, Chennai.
NCB F.No.48/1/11/2019-NCB/MDS)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C., praying, to enlarge the petitioner on Interim Bail in C.C.No.17 of 2020 on the file of the Special Judge, II Additional Special Court for Exclusive Trial of cases under NDPS Act, Chennai.

For Petitioners

: Mr.K.Kannan

For Respondent

: Mr.N.P.Kumar
Special Public Prosecutor

ORDER

The petitioners, who are accused in NCB File No.48/1/11/2019-NCB/MDS was arrested for offence under Section 8(c) r/w 20 (b)(ii)(c), 28 & 29 of the Narcotics Drugs and Psychotropic Substances Act, 1955.

2. The case of prosecution is that based on the specific information the respondent seized a total of 62.600kgs of Ganja concealed in a trolley bag at Egmore Station on 10.08.2019, from the possession of one Mrs.Shanmuga Priya and Mr.M.A. Srimanikandan, who are the 1st and 2nd Petitioners. Thereafter, the petitioners were served with summons under Section 67 of NDPS Act. The petitioners have appeared before the Intelligence Officer of the respondent on 10.08.2019 at 02.30 P.M. During enquiry, they voluntarily gave a statement admitting their possession, financing procurement and attempt to illicit transport of 62.600kgs of Ganja. Based on the voluntary confession statement dated 10.08.2019, the material objects were seized. The petitioners/accused were arrested on 11.08.2019 and produced before the Learned Magistrate.

3. The contention of the petitioners is that they were travelling in a

train, seated in a reserved coach. The respondent searched the coach No.B2, in seat Nos.23 & 24, they confirmed the petitioners name which matches with the information and introduced themselves. The petitioners having two trolley bags and one small hand bag. The respondent found green colour dry leaves weighing about 63 kg and seized from the petitioners. The petitioners, thereafter, remanded and they are in confinement from 10.08.2019. He further submitted that the 1st petitioner being a lady, she was not searched by a Lady Officer, which is against the guidelines issued by the Apex Court. Further, in this case, Section 50 of the NDPS Act, has not been complied with since the 1st petitioner daughter had attained puberty, as mother she has to perform the puberty ceremony hence the petitioners are seeking interim bail for a period of one month.

4. The Learned Special Public Prosecutor for the respondent submitted that this Court, on 05.05.2020, had dismissed the bail application of the petitioners in CrI.O.P.No.6676 of 2020 and thereafter, there is no change of circumstances to entertain the above petition. Further, the Special Public Prosecutor for the respondent would submit that investigation in this case is completed and charge sheet filed, which is pending trial in C.C.No.17 of 2020, before the Special Judge-II, Additional Special Court for exclusive trial cases

under NDPS Act. The case is now pending for framing of charges. Further, the Special Public Prosecutor for the respondent would submit that the provisions under Sections 42 & 50(4) of the NDPS Act, has been complied with by the respondent. Further, the contraband seized is of commercial quantity, hence Section 37 of NDPS Act, comes into play. The petitioners have to make out the case to overcome the statutory bar under this Act.

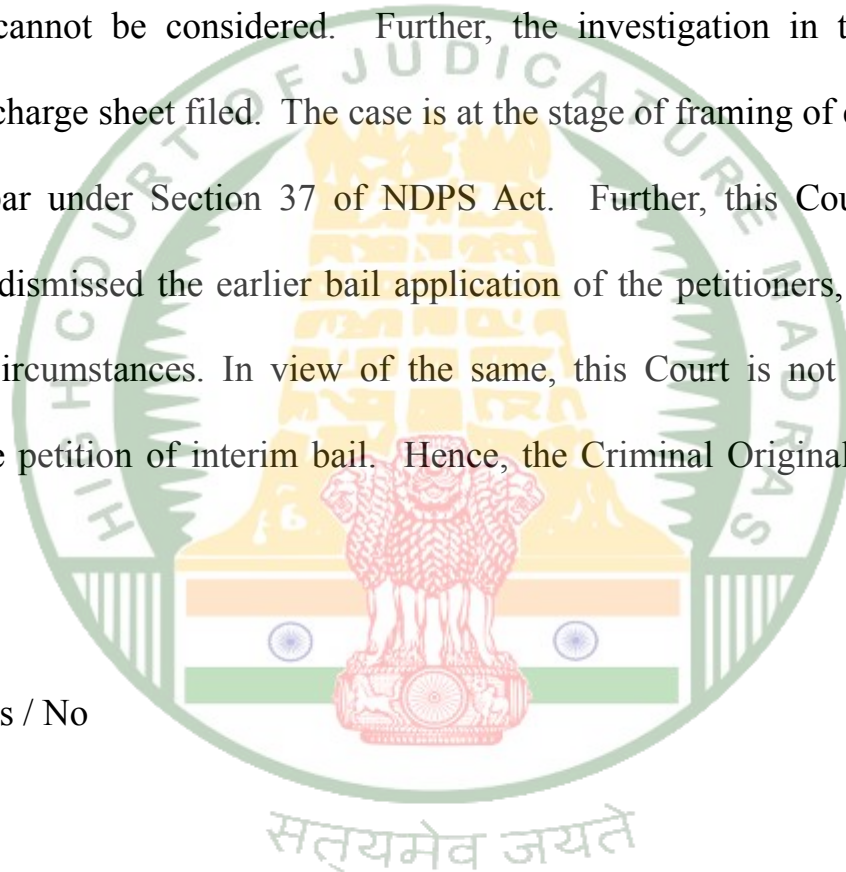
5. The Learned Special Public Prosecutor for the respondent would further submit that to verify the reason given by the petitioner that her daughter attained puberty. The Intelligence Officer of Madurai unit, visited the address given by the petitioner, found nobody residing in the said address, photographs were taken and forwarded to this Court, along with the counter. It is a temporary shed without any door and it was found that the petitioners were doing business in the said place and address given by the petitioners is not the residence of the petitioners and if the petitioners were let out on bail, there is every possibility of the petitioners fleeing from justice. The petitioners would abscond. Hence, strongly opposed the bail application.

6. Considering the rival submissions and on perusal of the material and also from the counter submitted by the respondent, admittedly, in this case, 62.600kgm of Ganja concealed in trolley bags were seized, which is commercial

quantity. The accused have given statement under Section 67 of NDPS Act, which is admissible in evidence. The contraband has been tested to be Ganja. The address given by the petitioners, for verification found to be temporary shed and nobody residing there. In view of the same, the contention of the petitioners cannot be considered. Further, the investigation in this case is completed, charge sheet filed. The case is at the stage of framing of charges and there is a bar under Section 37 of NDPS Act. Further, this Court only on 05.05.2020 dismissed the earlier bail application of the petitioners, there is no change in circumstances. In view of the same, this Court is not inclined to entertain the petition of interim bail. Hence, the Criminal Original Petition is dismissed.

28.05.2020

Internet : Yes / No
bsm



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M.NIRMAL KUMAR,J.

bsm

To

1. The Learned Special Judge, II Additional Special Court, NDPS Act, Chennai.
2. The Superintendent, Central Prison, Puzhal.
3. The Intelligence Officer, Narcotics Control Bureau, Chennai Zonal Unit, Chennai.
4. The Public Prosecutor, High Court, Madras.



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