

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.06.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.7638 of 2020

1.Maruthupandi
2.Aandi

... Petitioners

/versus/

State rep by
The Inspector of Police,
Narcotic Control Bureau,
Chennai Zonal Unit, Chennai.
(In F.No.48/1/5/2020-NCB-MDO)

... Respondent

Prayer: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code, pleaded to grant bail to the petitioners / Accused No.1 & 2 pending investigation in F.No.48/1/5/2020-NCB-MDO on the file of Respondent Police.

For petitioners : Mr.S.Mohamed Ansar

For Respondent : Mr.N.P.Kumar,
Special Public Prosecutor(NDPS cases)

O R D E R

(The case has been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 27.02.2020 for the alleged offences punishable under Sections 8(c) r/w 20(b)(ii)(C), 28 and 29 of NDPS Act, in F.No.48/1/5/2020-NCB-MDO on the file of the respondent police, seek bail.

2. The case of the prosecution is that the petitioners were found to have allegedly transported 308 Kg of Ganja in their lorry. The respondent police seized the contraband and arrested the petitioners on 26.02.2020 at Karanodai Toll Plaza, Red Hills, Chennai. Hence, the instant case was registered.

3.The learned counsel appearing for the petitioners would submit that the 1st petitioner is running a Lorry Puncture Vulcanizing Shop at Madurai for past 20 years. He is also running a Transport service for past ten years. He purchased a Lorry bearing registration No.TN 74 AB 6786 before three months as on date, the application for transfer of name and registration is pending before the RT0 office. The second petitioner was introduced to the first petitioner as driver and he joined the transport company. Whiles0, the lorry was

booked by a customer for transporting papers from Vizhakapattinam to Thiruvavarur. The lorry was loaded with the consignment and the petitioners were handed over invoice and tax forms. While the petitioners were proceeding from Vizhakapattinam to Tiruvarur, a person had approached the petitioner to transport 10bags from Vizakapattinam to Madurai stating it to be papers, while the petitioners were nearing to Chennai they were intercepted at Karanodai toll plaza and a search was conducted and to their shock and surprise the 10bags were found to contain 308kgs of brownish green colour dry leaves believed to be Marijuana. The learned counsel for the petitioner would further submit that the petitioners were not aware that the 10parcels given to them contains Ganja. He would submit that during enquiry the petitioners have furnished necessary documents to show that they were legally running transport business and contraband does not belong to them. He would submit that the petitioners were arrested on 27.02.2020 and remanded to custody on the same day and they are in custody for more than four months.

4. The learned Special Public Prosecutor for NCB would submit that on the specific information, the officers of the Narcotic Control Bureau, Chennai control unit intercepted the vehicle belonging to the first petitioner driven by the second petitioner, on search the petitioners were found to be possession and they have illegally transported 308Kgs of Marijuana (Ganja) in Ashok Leyland Truck bearing Registration No.TN74-AB-6786. They were summoned under Section 67 of NDPS Act and they were directed to appear before the intelligence office at Ayyapakkam, Chennai on 26.02.2020. During enquiry the petitioners have admitted to their individual guilt in conspiring, procuring, possession and attempt to transport 308kgs of Ganja illegally and based on their confession, the incriminating documents and material objects were seized.

5. The learned counsel would further submit that the mahazar was drawn and the accused were arrested. The petitioners who are respectively the owner and driver of the transport company, knowingly transported the contraband Ganja which is of commercial quantity. The petitioners have to satisfy the two tests enumerated under Section 37 of the NDPS Act, which they have failed.

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

7. The petitioners are arrested for having illegal possessed and transported 308kgs of Ganja, they were summoned by the respondent on 26.02.2020 under Section 67 of the NDPS Act. The statement has been recorded from them wherein they have voluntarily confessed about the offence of having possession and transporting 308kgs of Ganja. The voluntary confession statement was also stated to have been recorded by the accused on their own hand writing.

8. In the opinion of this Court, the petitioners have not satisfied the twin conditions enumerated under Section 37 of the NDPS Act. The petitioners have been arrested for having transported huge quantity of Ganja. The investigation is still pending. This Court is not inclined to grant bail to the petitioners.

9. In the result, the criminal original petition stands dismissed.

-sd/-

26/06/2020

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
FOR EC & NDPS ACT CASES, CHENNAI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE
NARCOTIC CONTROL BUREAU,
CHENNAI ZONAL UNIT, CHENNAI.

4 THE SUPERINTENDENT,
CENTRAL PRISON-1, PUZHAI,
CHENNAI

CC to S.MOHAMED ANSAR Advocate on payment of necessary charges

WEB COPY

CRL OP.7638/2020

Date :26/06/2020

RVR 27/08/2020