



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

Friday, the Twenty Fifth day of September Two Thousand and Twenty

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PRESENT

The Hon'ble Mr.Justice B.PUGALENDHI

CRL OP(MD) No.8593 of 2020

1 MUNIYASAMY @ PADAM MUNIYASAMY

2 VAZHIVIDUM MURUGAN

... PETITIONERS/ACCUSED No.1&2

Vs

THE STATE REP. BY
THE INSPECTOR OF POLICE,
MANGALAMEDU POLICE STATION,
PERAMBALUR DISTRICT.
CRIME No.203 OF 2019

... RESPONDENT/COMPLAINANT

For Petitioner : Mr.VEERA KATHIRAVAN, Senior Counsel for
M/S.VEERA ASSOCIATES

For Respondent : Mr.K.K.RAMAKRISHNAN,
Additional Public Prosecutor

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

ORDER : The Court Made the following order :-

The petitioners accused 1 and 2 in Crime No.203 of 2019 on Mangalamedu Police Station, Perambalur filed this bail application stating that the respondent Police arrested them on 13.07.2019 and remanded them to judicial custody for the offence under Sections 186, 97, 307 IPC and under Sections 8(c) and 20(b)(ii)(c) 25 of NDPS Act.

2.The investigation in this case has been completed and the final report has also been filed before the Additional District and Sessions Judge / Presiding Officer, Special Court for EC and NDPS Act Cases, Pudukottai and the same is pending in C.C.No.138 of 2019.

3.The case of the prosecution is that on 13.07.2019, the Police were in search of the accused in Crime No.402 of 2019 on the file of the B4 Keeraithurai Police Station, Madurai and at that time they have intercepted a red colour Honda City Car bearing Registration No.IN 06 C 0033 near Samayapuram, but the vehicle did not stop. Despite warning of the Police, they tried to escape and attempted to



run over the Police Officials. However, the respondent Police surrounded the vehicle, made a search and also found 170 Kgs of Kanja concealed in their car. The petitioners in the car were also arrested by the respondent Police and were sent to judicial custody.

4. Heard Mr. Veera Kathiravan, learned Senior Counsel for M/s. Veera Associates, appearing for the petitioners and Mr. K.K. Ramakrishnan, learned Additional Public Prosecutor appearing for the State.

5. Mr. Veera Kathiravan, learned Senior Counsel appearing for the petitioners in support of this petition submitted that there are statutory violations in this case. Though the case was registered on 13.07.2019, the accused were produced before the learned Judicial Magistrate, Perambalur with seizure mahazar on 15.07.2019. The learned Judicial Magistrate by his order dated 15.07.2019, returned the documents. Thereafter, the printed FIR and other documents were produced before the trial Court only on 02.08.2019 in P.R.No.92 of 2019 and there is a delay of 21 days for producing the seized contraband and the First Information Report in this case.

6. The learned Senior Counsel would further submit that while recovering the contraband, it is stated that the samples were drawn from all the 14 bags, but they have not assigned any serial numbers for the bags and the samples were sent for chemical analysis only on 05.08.2019. At the instance of the defacto complainant in Crime No.412 of 2019, the respondent Police in order to detain the petitioners under the Goonda's Act, foisted this false complaint and also detained them as Goonda by order, dated 13.09.2019. As against the detention orders, the petitioners have filed H.C.P(MD) Nos.889 and 2457 of 2019 before this Court and the same were allowed by order, dated 04.06.2020 and 20.02.2020 respectively. Therefore the learned Senior Counsel prayed that the petitioners be enlarged on bail.

7. Per contra, Mr. K.K. Ramakrishnan, learned Additional Public Prosecutor submitted that based on the secret information received, the Sub Inspector of Police, Special Team Madurai along with team, after obtaining permission from higher officials made a vehicle check on 13.07.2019 near Thirumanthurai Toll Gate. Around 12.30 pm on that day, the petitioners / accused came in a Car bearing Registration No. TN 06 C 0033 Honda City Car on seeing the Police Party the accused person did not stop the car and tried to escape from the Car, but the Police team nabbed them and on enquiry, the petitioners/accused confessed that they had illegally possessed 170Kgs of Kanja in the Car and subsequently, a case of registered in Crime No.203 of 2019 under Sections 186, 97, 307 IPC and under Sections 8(c) and 20(b)(ii)(c) 25 of NDPS Act.

8. The further investigation was taken up by one Devaraj, Deputy Superintendent of Police, Mangalamedu Sub Division, Perambalur District. He found 168.600Kgs of Kanja and seized the same by



preparing seizure mahazar. The accused were produced before the Court concerned along with seizure mahazar and subsequently, the car and contraband were produced before the learned Judicial Magistrate, Perambalur and the same was produced before the learned Special Judge, Special Court for EC and NDPS Act Cases, Pudukottai.

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9.The learned Additional Public Prosecutor further submitted that the accused have given voluntary confession statement in the presence of the independent witnesses and they also admitted that they are relatives to each other and they had gone to Andhara to procure contraband and to sell in Ramanathapuram. The recovery was also made before the independent witnesses. The Inspector of Police, who registered the case, has informed the Deputy Superintendent of Police and the same was also endorsed by the Deputy Superintendent and therefore, there is no violative of Section 57 of NDPS Act as alleged by the petitioners.

10.The learned Additional Public Prosecutor would further submit that the Police have drawn samples, official seal was also affixed on the samples and the same is also evident from the FSL report. The Trial Court is situated far away from the Police Station and after getting the date from the concerned Officer of the Trial Court, the contraband was produced before the learned Special Judge, Pudukottai.

11.The learned Additional Public Prosecutor also submitted that the petitioners herein were in possession of 170 Kgs of Kanga, which is a commercial quantity, as per Serial No.55 of the Notification issued by the Central Government in NDPS Act and there is a specific bar under Section 37 of the NDPS Act, for granting bail to the accused person, who possesses or transports any narcotic substance in commercial quantity. Further, the 1st petitioner/accused already involved in murder case in Keeraithurai Police Station, Madurai City and he filed a bail petition in Crl.O.P(MD)No.8539 of 2019, wherein bail was granted to the petitioner on 25.06.2019 with certain conditions, which he did not comply with and the present offence is committed after he was absconding.

12.Further, the investigation is also completed and charge sheet also filed before the Special Court for NDPS Act Pudukottai and the same was taken on file in C.C.No.138 of 2019 and the case is under trial. The petitioners have filed a bail application in Crl.O.P(MD)No.2948 of 2018 and the same was dismissed on 20.04.2020 and another bail application in Crl.OP(MD)No.5665 of 2020 was filed, when there was no change of circumstances and after filing of the counter and hearing, the said petition was dismissed as withdrawn on 21.07.2020. Even this bail application is filed, when there is no change of circumstance and therefore, prayed for dismissal of the bail application.

13.This Court paid its anxious consideration to the rival submission and perused the materials placed on record.



14. It is seen that 170Kgs of Kanja were found in possession of the petitioners and the same was recovered from them. The accused along with the contraband were produced before the learned Judicial Magistrate, Perambalur and subsequently, they were also produced before the learned Special Judge, Pudukottai.

15. The earlier bail application filed by the petitioners was also withdrawn after filing counter affidavit by the respondent Police. Further there is a specific bar under Section 37 of the NDPS Act for granting bail to the accused persons, who have involved in the commission of offence, involving possession and transportation of any narcotic substances of commercial quantity.

16. Further the investigation has also been completed and final report is also filed before the trial Court. Moreover, the recent bail application filed by the petitioners were also withdrawn on 21.07.2020. Now this bail application is filed on 05.08.2020 within two weeks from the dismissal of the earlier bail application filed by the petitioners.

17. Considering the facts and circumstances of the case and the specific bar under Section 37 of the NDPS Act and also in view of the above discussion this bail application is dismissed.

sd/-
25/09/2020

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

TO

1. THE INSPECTOR OF POLICE,
MANGALAMEDU POLICE STATION,
PERAMBALUR DISTRICT.
2. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.
3. THE OFFICER INCHARGE,
DISTRICT JAIL,
PERAMBALUR.

ORDER
IN
CRL OP (MD) No.8593 of 2020
Date : 25/09/2020

DSK

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1E/JC/SAR-111 : 23/12/2020 : 2P/4C