



WEB COPY

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

Date : 29/10/2020

PRESENT

The Hon'ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD). No.10110 of 2020

1. Murgesh
2. Venkatraman
3. AyyamPerumal
4. Kumar

... Petitioners/A1 to A4

Vs

The State rep. by
The Inspector of Police,
Adirampattinam Police Station,
Thanjavur District.
(Crime.No.50/2020).

... Respondent/Complainant

For Petitioners : Mr.S.Sidhartha Vishnu, Advocate
1,3&4 for Ms.K.Selvakumaraswami, Advocate.

For Petitioner 2: M/s.R.Major kumar, Advocate
for Mr.K.Neelamegam, Advocate.

For Respondent : Mr.KR.Bharathikannan,
Government Advocate (Criminal Side)

PETITION FOR BAIL Under Section 439 of Cr.P.C.

PRAYER:-

For a Bail in Cr.No.50 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/A1 to A4, who were arrested and remanded to judicial custody on 27.02.2020, 03.03.2020 and 29.02.2020 respectively for the offences punishable under Sections 8(c), 20(b)(ii)(B) of NDPS Act on the file of the respondent police seeks bail.



2. The case of the prosecution is that on 27.2.2020 on secret information the respondent police intercepted the car bearing Reg. No. TN 20 DB 3879 driven by A1 and A2 and when the respondent police searched the car found contraband weighing 220 kg and further alleged that all the accused persons were returning after handing over two big bundles of Ganja to A4. After completion of formalities the respondent police registered the First Information Report.

3. The learned counsel for the petitioners would submit that in respect of second petitioner he is not pressing the application and insofar as other petitioners are concerned they are innocent and there is no previous bad antecedent and the present case has been registered only for statistical purpose and the mandatory procedure laid down under the NDPS Act has not been followed by the respondent herein. He further submitted that the respondent police completed investigation and also filed final report and as such custodial interrogation of the petitioner is not necessary and also submitted that the petitioners were in judicial custody for more than seven months, hence they may be granted bail.

4. The learned Government Advocate (Criminal Side) would submit that there are four accused in this case and the petitioners are arrayed as A1 to A4. On secret information on 27.02.2020 when the respondent police intercepted the car bearing Reg. No. TN 20 DB 3879 driven by A1 and A2 they found contraband weighing 220 kg and further alleged that all the accused persons were returning after handing over two big bundles of Ganja to A4. After complying all mandatory provisions registered the First Information Report as against the accused persons and remanded to judicial custody. He further submitted that the respondent police followed the mandatory procedure under Sections 42, 50, 52A and 57 of the NDPS Act, If the mandatory procedures are not complied with it is a matter for trial and it cannot be considered by this Court that too in the bail petition. That apart the petitioner was found in possession of Kanja which falls within the commercial quantity and as such there is no bar under Section 37 of the NDPS Act and does he is not entitled for bail and prayed for dismissal of the petition.

5. It is seen that there are four accused in this case and the petitioners herein is arrayed as A1 to A4. On secret information the respondent police intercepted the car bearing Reg. No. TN 20 DB 3879 driven by A1 and A2 and found contraband weighing 220 kg of Ganja. That apart the respondent police also followed all mandatory procedures laid down under Sections 42, 50, 52A and 57 of the NDPS Act. Further the contraband possessed by the petitioner falls under commercial quantity. In the light of Section 37 of the NDPS Act, if the petitioners fails to satisfy the twin test as contemplated under Section 37 of the NDPS Act, the petitioners are not entitled for bail. Hence this Court is not inclined to grant bail to the



6. In the result, this petition stand dismissed as withdrawn in respect of second petitioner and in respect of other petitioners this petition stands dismissed.

sd/-
29/10/2020

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

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE SUPERINTENDENT,
CENTRAL PRISON,
TRICHY.
2. THE INSPECTOR OF POLICE,
ADIRAMPATTINAM POLICE STATION,
THANJAVUR DISTRICT.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.10110 of 2020
Date :29/10/2020

AAV
SRS/AKM/SAR-IV/03.11.2020/ 3P/4C