



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 12/10/2020

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PRESENT

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

CRL OP(MD). No.10097 of 2020

Veeramani

... Petitioner/Accused

Vs

State Rep. by
The Inspector of Police,
Avaniyapuram Police Station,
Madurai District
Crime No. 1623 of 2020.

... Respondent/Complainant

For Petitioner : M/s.R.Karunanidhi,
Advocate.

For Respondent : Mr.K.R.Bharathikannan,
Government Advocate (Crl.Side)

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

PRAYER :-

For Bail in Crime No. 1623 of 2020 on the file of the
Respondent Police

ORDER : The Court made the following order :-

The petitioner/A2, who was arrested and remanded to judicial custody on 15.06.2020 for the offences punishable under Sections 8 (c)r/w.20(b)(ii)(C),25 and 29(1) of NDPS Act on the file of the respondent police seeks bail.

2. The case of the prosecution is that on 15.06.2020 when the respondent police was on duty, he received a secret information about illegal transportation of Ganja. Thereafter he went to Vellakkal junction on Aruppukottai road, Madurai and found the first accused driving a two wheeler bearing Reg. NO. TN 59 CC 0749 and the petitioner herein was sitting as a pillion rider and seized 2 kg of Ganja from the first accused and subsequently based on the confession given by the first accused 22 kg of Ganja was recovered from the third accused. After following the procedure laid down in Section 54 of the NDPS Act, 2 kgs of Kanja was before the



respondent police. The same were recovered and thereafter the accused person was arrested and brought to the police station.

3. The learned counsel for the petitioner would submit that the petitioner's mother has sent a complaint against the SI of Police, Avaniyapuram in the year 2018 for physical torture of the petitioner and she has also sent a complaint to the National Commission for Scheduled Castes against the police officers and keeping the same in mind this false case was registered against the petitioner. He would also submit that the contraband received from the petitioner is only four kgs. He would also submit that the petitioner is in jail for more than three months, hence he may be granted bail.

4. The learned Government Advocate(Crl.Side) would submit that there are totally 13 accused in this case and the petitioner herein is arrayed as A2. The total quantity of contraband involved in this case is around 24kgs, which falls under the category of commercial quantity. 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. After complying all mandatory provisions registered the First Information Report as against the accused persons and remanded to judicial custody. Further the petitioner is having four previous cases. 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 totally 13 accused in this case and the petitioner herein is arrayed as A2. The total quantity of Ganja recovered from the petitioner is 24 kgs which falls within the commercial quantity and therefore granting the relief of bail to the petitioner in the light of section 37 of the NDPS Act. In the light of Section 37 of the NDPS Act, if the petitioner fails to satisfy the twin test as contemplated under Section 37 of the NDPS Act , the petitioner is not entitled for bail. That apart the petitioner is also having four previous cases under NDPS Act, hence this Court is not inclined to grant bail to the petitioner.

6. Hence this petition stands dismissed.

sd/-
12/10/2020

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/ /2020
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.

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- TO
- 1 THE INSPECTOR OF POLICE,
AVANIYAPURAM POLICE STATION,
MADURAI DISTRICT.
 - 2 THE SUPERINTENDENT,
CENTRAL JAIL, MADURAI.
 - 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.10097 of 2020
Date :12/10/2020

aav
JM/PN/SAR III/22.10.2020/3P/4C