



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

Date : 27/11/2020

WEB COPY

PRESENT

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

CRL OP(MD). No.13173 of 2020

Berlin

... Petitioner/Accused No.6

Vs

The State rep.by
The Inspector of Police,
Kadaiyalumoodu Police Station,
Kanyakumari District.
Crime No.114 of 2020.

... Respondent/Complainant

For Petitioner : Mr.A.Mohamed Haneef,
Advocate.

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

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

PRAYER :-

For Bail in Crime No. 114 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A6, who was arrested and remanded to judicial custody on 08.10.2020 for the offences punishable under Sections 8(c) r/w.20(b)(ii)(C) and Section 25 of NDPS Act on the file of the respondent police seeks bail.

2. The case of the prosecution is that on receipt of secret information the respondent police along with his team went to Netta Check post at 5.30 pm., on 07.10.2020 and while they were in surveillance the petitioner along with other accused persons came in motor cycle with the alleged contraband weighing about 28 Kilograms.

3. The learned counsel for the petitioner would submit that the petitioner is falsely implicated in this case and nothing has been recovered from the petitioner herein. He would also submit that the no previous case is pending against the petitioner and he is in jail from 08.10.2020, hence he seeks bail.



4. The learned Government Advocate (Crl.Side) would submit that there are seven accused in this case and the petitioner herein is arrayed as A6. On receipt of secret information the respondent police along with his team went to Netta Check post at 5.30 pm., on 07.10.2020 and while they were in surveillance the petitioner along with other accused persons came in motor cycle with the alleged contraband weighing about 28 Kilograms, which comes under the category of commercial quantity. 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 seven accused in this case and the petitioner herein is arrayed as A6. On receipt of secret information the respondent police along with his team went to Netta Check post at 5.30 pm., on 07.10.2020 and while they were in surveillance the petitioner along with other accused persons came in motor cycle with the alleged contraband weighing about 28 Kilograms. 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 petitioner fails to satisfy the twin test as contemplated under Section 37 of the NDPS Act, the petitioner is not entitled for bail. Hence this Court is not inclined to grant bail to the petitioner.

6. In the result, this petition stand dismissed.

sd/-
27/11/2020

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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



TO

1. THE INSPECTOR OF POLICE,
KADAIYALUMOODU POLICE STATION,
KANYAKUMARI DISTRICT.

2. THE OFFICER INCHARGE,
DISTRICT JAIL, NAGERCOIL.

3. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.13173 of 2020

Date : 27/11/2020

AAV

TK/PN/SAR.2/01.12.2020/3P/4C