



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 23/11/2020

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PRESENT

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

CRL OP(MD). No.13269 of 2020

1.Rajavel
2.Jothi

... Petitioners/Accused
Nos.4 & 5

Vs

The State rep.by
The Inspector of Police,
Neyveli Police Station
Cuddalore District.
Crime No.1045 of 2020.

... Respondent/Complainant

For Petitioners : Mr.K.Prakash,
Advocate.

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

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

PRAYER :-

For Bail in Crime No. 1045 of 2020 on the file of the
Respondent police

ORDER : The Court made the following order :-

The petitioners/A4 & A5, who were arrested and remanded to
judicial custody on 05.10.2020 for the offences punishable under
Sections 8 (c) r/w 20(b) (ii)(B) of NDPS Act, 1985, in Crime
No.1045 of 2020, on the file of the respondent police, seek bail.

2.The case of the prosecution is that the vehicle was driven by
A1 & A2 intercepted by the respondent police and they found 2 kgs of
Ganja. On their confession statement, they purchased Ganja from A3.
After arresting A3, recorded his confession, it reveals that he
purchased the contraband from the petitioners herein. They were
found 6 kgs of Ganja and consequently they were arrested and
remanded to judicial custody.



3. Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Crl. Side) appearing for the respondent Police.

4. The learned counsel appearing for the petitioners submitted that the petitioners are arrayed as accused A4 & A5 and both are husband and wife. They never indulged in any crime as alleged by the prosecution. A false case has been foisted against the petitioners. Since the petitioners residing at Thirupattur District, they were no way connected with A1 & A2. Initially, the respondent registered the case as against the petitioners on the allegation that they were found in possession of 2 kgs of Ganja. Specifically, they took up the case stating that A1 and A2 purchased the Ganja from A3, in turn, A3 purchased the contraband from A4 & A5. He further submitted that they never involved in any case previously. It is the first case as against the petitioners. He further submitted that the petitioners were arrested and remanded to judicial custody on 05.10.2020. Hence, he prayed for grant of bail to the petitioners.

5. The learned Government Advocate (Crl. Side) appearing for the respondent Police submitted that there are totally 5 accused. On the confession of the co-accused, the petitioners were arrested and remanded to judicial custody. At the time of arresting, they have found 6 kgs of Ganja. Initially A1 & A2 were arrested and found in possession of 2 kgs of Ganja. Consequently, they were arrested and remanded to judicial custody and on their confession statement that they purchased contraband from A3, A3 was found in 2 kgs of Ganja and he was arrested and remanded to judicial custody. On the confession statement of A3, the petitioners were found in possession of 6 kgs of Ganja and they were arrested and remanded to judicial custody.

6. The petitioners are whole seller and they only sold the contraband to all the re-sellers. It is seen that there are 5 accused, in which, the petitioners are arrayed as A4 & A5. According to the case of the prosecution, the petitioners found in possession of 6 kgs of Ganja and they have only sold the contraband to A1 to A3. They also found in possession of each 2 kgs of Ganja and hence, arrested and remanded to judicial custody.

7. It is seen that the petitioners are whole seller and they have only sold the contraband to the other accused persons.

8. Considering the nature of offence and also considering the fact that the contraband involved in this case comes under the commercial quantity and the petitioners have not satisfied the conditions envisaged under Section 37 (1) (b) (ii) of the NDPS Act, this Court is not inclined to grant bail to the petitioners.



9. Accordingly, this criminal original petition is dismissed.

sd/-
23/11/2020

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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 concerned.

TO

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

ORDER
IN
CRL OP(MD) No.13269 of 2020
Date : 23/11/2020

DSS
TK/VR/SAR.4/26.11.2020/3P/4C