



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

Date : 27/11/2020

PRESENT

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

CRL OP(MD). No.13529 of 2020

Priyadharshini

... Petitioner/Accused No.7

Vs

The State rep.by
The Sub Inspector of Police,
Oddanchathiram Police Station,
Dindigul District.
Crime No.2137 of 2020.

... Respondent/Complainant

For Petitioner : Mr.S.Selva Kumar,
Advocate.

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

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

PRAYER :-

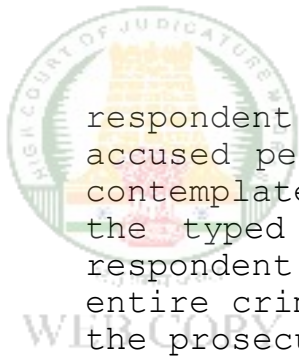
For Bail in Crime No.2137 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A7, who was arrested and remanded to judicial custody on 22.09.2020 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 secret information the respondent police conducted raid along with his police party on 22.09.2020 at about 08.30 am., from Ottanchatiram to Vedasanthur Road and identified the petitioner and other accused persons . Immediately they intercepted them and explained them about their search rights and when they searched they found the petitioner along with other accused in possession of 80 kg of Ganja, which falls under the category of commercial quantity.

3. The learned counsel for the petitioner would submit that the respondent did not follow the mandatory procedure as contemplated under Section 50 of NDPS Act. He would also submit that the



respondent prepared joint submission for search in which all the accused persons jointly signed in the said document, which is not contemplated under the NDPS Act. Further arrest memo is already in the typed form, wherein crime number has been mentioned by the respondent police, therefore it is highly doubtful that whether the entire crime has been committed by the accused persons as alleged by the prosecution. He would also submit that the no previous case is pending against the petitioner and he is in jail from 22.09.2020, 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 A7. On secret information the respondent police conducted raid along with his police party on 22.09.2020 at about 08.30 am., from Ottanchatiram to Vedasanthur Road and identified the petitioner and other accused persons. Immediately they intercepted them and explained them about their search rights and when they searched they found the petitioner along with other accused in possession of 80 kg of Ganja which falls 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 A7. All the grounds raised by the petitioner can be considered only during trial not at the stage of granting bail. 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 concerned.

WEB COPY

TO

- 1.THE SUB INSPECTOR OF POLICE,
ODDANCHATHIRAM POLICE STATION,
DINDIGUL DISTRICT.
- 2.THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 3.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.13529 of 2020
Date :27/11/2020

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