



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 07/12/2020

PRESENT

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

CRL OP(MD) . No.14196 of 2020

Uthayavan ... Petitioner/Accused No.2

Vs

The State, Rep.by
The Inspector of Police,
NIB CID, Theni, Theni District.
(Crime No.13/2020).

... Respondent/Complainant

For Petitioner : M/s.D.Ramesh Kumar,
Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

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

PRAYER :-

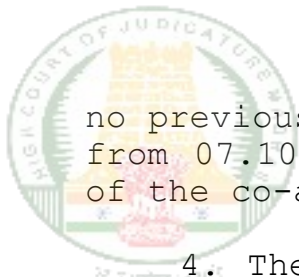
For Bail in Crime No.13/2020 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/A2 who were arrested and remanded to judicial custody on 07.10.2020 for the offences punishable under Sections 8(c) r/w.20(b)(ii)(c), 25, 27(A), 29(1) of NDPS Act on the file of the respondent police seeks bail.

2. The case of the prosecution is that on 15.02.2020 at about 05.45 a.m., on secret information while the respondent police was on patrol duty intercepted the car bearing Reg. No. TN 09 BW 5591 and on search they found the petitioner and others in possession of 168 kgs of Ganja and the same was recovered.

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 07.10.2020. He would also submit that based on the confession of the co-accused, this petitioner has been implicated.

4. The learned Government Advocate (Crl.Side) would submit that there are totally six accused in this case and the petitioner herein is arrayed as A2. On receipt of secret information while the respondent police was on patrol duty intercepted the car bearing Reg. No. TN 09 BW 5591 and on search they found the petitioner and others in possession of 168 kgs of Ganja 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. 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. He would also submit that the respondent police completed investigation and filed final report before the concerned Court and the same is yet to be taken cognizance.

5. It is seen that there are six accused in this case and the petitioner herein is arrayed as A2. On 15.02.2020 at about 05.45 a.m., on secret information while the respondent police was on patrol duty intercepted the car bearing Reg. No. TN 09 BW 5591 and on search they found the petitioner and others in possession of 168 kgs of Ganja and the same was recovered. 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. Further the respondent police also completed investigation and filed final report before the concerned Court. On merits also 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 stands dismissed.

sd/-

07/12/2020

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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



TO

1 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

2 THE INSPECTOR OF POLICE,
NIB CID, THENI, THENI DISTRICT.

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

ORDER

IN

CRL OP(MD) No.14196 of 2020

Date :07/12/2020

AAV

AE/SMA/SAR-III (10.12.2020) 3P / 4C