



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 08/12/2020

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PRESENT

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

CRL OP(MD) . No.14312 of 2020

1. Mohanraj
2. Venkatesa Perumal ... Petitioners/Accused No.1 & 2

Vs

State represented by,
The Inspector of Police,
NIBCID Police Station,
Trichy.
(In Crime No.25/2020). ... Respondent/Complainant

For Petitioners : M/s.K.Navaneetharaja,
Advocate.
For Respondent : Mr.KR.Bharathikannan,
Government Advocate (Cr1.Side)

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

PRAYER :-

For Bail in crime No.25 of 2020 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioners/A2 and A3 who were arrested and remanded to judicial custody on 23.10.2020 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 seek bail.

2. The case of the prosecution is that the defacto complainant received a secret information that the petitioners were selling contraband, the defacto complainant arrived at spot and found the petitioners and another prime accused were in possession of 22 kilograms of ganja and based on the complaint the above case has been registered. They were explained them about their search rights and when they searched they found the petitioners 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 petitioners 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 no previous case is pending against the petitioners and they were in jail from 23.10.2020, hence they seek bail.

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4. The learned Government Advocate (Crl.Side) would submit that there are three accused in this case and the petitioners herein is arrayed as A2 and A3. He would further submit that the defacto complainant received a secret information that the petitioners were selling contraband, the defacto complainant arrived at spot and found the petitioners and another prime accused were in possession of 22 kilograms of ganja, which 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 petitioners were found in possession of ganja which falls within the commercial quantity and as such there is no bar under Section 37 of the NDPS Act and does they are not entitled for bail and prayed for dismissal of the petition.

5. It is seen that there are three accused in this case and the petitioners herein is arrayed as A2 and A3. All the grounds raised by the petitioners 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 petitioners fails to satisfy the twin test as contemplated under Section 37 of the NDPS Act, the petitioners are not entitled for bail. Hence this Court is not inclined to grant bail to the petitioners.

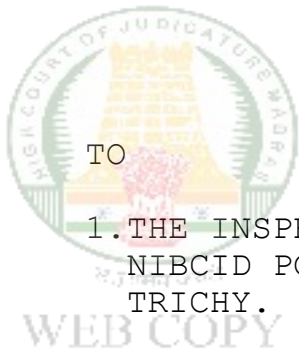
6. In the result, this petition stand dismissed.

sd/-
08/12/2020

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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,
NIBCID POLICE STATION,
TRICHY.
2. THE OFFICER IN-CHARGE,
DISTRICT PRISON, PUDUKKOTTAI
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.14312 of 2020
Date : 08/12/2020

AAV
PK/JC/SAR-IV/11.12.2020 : 3P/4C