

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Ninth day of April Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION Nos.4824 of 2021
and 15862 of 2020

E.VASANTHAKUMAR ...PETITIONER / ACCUSED
(IN CRL OP No.4824 of 2021)

A.TAMIL ARASAN ...PETITIONER / ACCUSED
(IN CRL OP No.15862 of 2020)

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE ...RESPONDENT/COMPLAINANT
NIB-CID POLICE STATION, IN BOTH PETITIONS
CHENNAI.
CRIME NO.19 OF 2020

For Petitioner : M/S.M.VINOTH Advocate
(IN CRL OP No.4824 of 2021)

For Petitioner : M/S.R.MUNIYAPPARAJ Advocate
(IN CRL OP No.15862 of 2020)

For Respondent : M/S.M.PRABHAVATHI, Additional Public Prosecutor
(IN BOTH PETITIONS)

PETITION FOR BAIL 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner who was arrested and remanded to judicial custody on 18.07.2020 for the offence under Sections 8(c) r/w 20(b) (ii)(c), 25 and 29(1) of NDPS Act in Cr.No.19 of 2020 on the file of the respondent police, seeks bail in Crl.O.P.No.4824 of 2021.

2.The petitioner who was arrested on 18.07.2020 for the offence under Sections 8(c), 20(b) (ii)(c), 25 and 29(1) of Narcotic Drugs and Psychotropic Substances Act, 1985 in Cr.No.19 of 2020 on the file of the respondent police, seeks bail in Crl.O.P.No.15862 of 2020.

3.The case of the prosecution is that on 18.07.2020 at about 7.00 hours, the respondent police based on the secret information received intercepted a TATA 1109 vehicle bearing registration No.TN-02-BQ-4594 AT Madhavaram Roundtana and seized 74 Kgs. of Ganja from A1 to A3. Thereafter based on the confession statement given by them, the respondent police found A4 and A5 waiting in Honda Activa bearing registration No.TN 10 BK 5317 and seized 31 Kgs. of Ganja from them. The petitioners are arrayed as A4 and A5 respectively.

4.The learned counsel appearing for the petitioners would submit that in respect of seizure and arrest, the respondent police has not followed the mandatory procedure as contemplated under NDPS Act. Further at the time of seizure, the petitioners were very much available in their house. Further, the petitioner in Crl.O.P.No.15862 of 2020 was taking treatment in a private hospital. Hence, the arrest made by the law enforcing agency is un-sustainable one. Further, the charge sheet was not filed within a period of 180 days as contemplated under the NDPS Act and the registration number of the vehicle mentioned in the FIR is different from the registration number mentioned in the charge sheet. In view of the above, the petitioners are entitled for grant of bail.

5.The learned Additional Public Prosecutor would submit that the contraband seized was more than the commercial quantity and would further submit that there is a bar under Section 37 of NDPS Act for granting bail. She would further submit that charge sheet has been filed and it is in PRC stage.

6.The issue involved in the case is a disputed question of fact which can be decided only at the time of trial. Since the quantity of the contraband seized is more than the commercial quantity and in view of the bar under Section 37 of NDPS Act, I am not inclined to grant bail to the petitioners.

7.These criminal original petitions are accordingly dismissed. However, liberty is given to the petitioners to canvass all the points before the trial Court at the time of trial.

8.At this juncture, the learned counsel appearing for the petitioners prays that this Court may issue direction to the trial Court to complete the trial as expeditiously as possible. In view of the above, this Court directs the concerned trial Court to complete

the trial in connection with Cr.No.19 of 2020 on the file of the respondent police, as expeditiously as possible.

-sd/-

09/04/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1.THE OFFICER-IN-CHARGE
SUB JAIL, KANCHIPURAM.

2.THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

3.THE INSPECTOR OF POLICE
NIB-CID POLICE STATION,
CHENNAI.

4.THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

+1 CC to M/S.M.VINOTH Advocate on payment of necessary charges
SR.No. 4755

+1 CC to M/S.RMR INDIAN LAW FIRM Advocate on payment of
necessary charges SR.No. 4641

CRL OP Nos.4824/2021
and 15862/2020

Date :09/04/2021

TK/26.04.2021

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