

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.05.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.9503 of 2021

Mr.Jayapandi

... Petitioner/1st Accused

Vs.

The State Rep. By its ... Respondent
The Inspector of Police,
Anthiyur Police Station,
Erode District.
(Crime No.114 of 2021)

PRAYER: Criminal Original petition has been filed under Section 439 of Cr.P.C, prayed to enlarge the petitioner on bail in Crime No.114 of 2021 on the file of the respondent police.

For Petitioners : Mr.M.Manohar

For Respondent : Mr.E.Rajthilak
Government Advocate (Crl side)

ORDER

The petitioner who was arrested and remanded to judicial custody on 11.03.2021 for the offences under Sections 8(c) & 20 (b) (ii) (c) of NDPS Act, 1985 in Crime No.114 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner (the first accused) along with three other accused, was found in possession of 8 Kgs of ganja (total ganja seized from all the four accused is 21 Kgs) in a Maruthi Omni Van bearing Registration No.TN 38 AH 820 and that he was arrested along with the other accused and remanded to judicial custody on 11.03.2021.

3. The learned counsel appearing for the petitioner would submit that the petitioner has not committed any such offence as alleged in the FIR and that he has been falsely implicated in the case and that the petitioner is ready to abide by any condition that may be imposed by this Hon'ble Court and prays to enlarge the petitioner on bail.

4. Learned Government Advocate (Crl. Side) appearing for the respondent submits that the petitioner was found in possession of 8.000 Kgs. of ganja, which is a commercial quantity as prescribed

under the NDPS Act and, therefore, bail, as sought for by the petitioner cannot be granted in view of the bar u/s 37 of the NDPS Act.

5. This Court paid its careful consideration to the submissions advanced by the learned counsel on either side and perused the materials available on record.

6. According to the respondent, the contraband seized from the petitioner is commercial quantity and, therefore, the petitioner is not entitled for bail u/s 37 of the NDPS Act. Though it is countered by the petitioner, it is to be pointed out that the said fact requires to be established at the time of trial and it cannot be decided at the present time, while considering the case for grant of bail. Once the respondent has taken a stand that the petitioner was in possession of contraband, which is commercial quantity as per the NDPS Act, the petitioner is not entitled for bail as per the bar envisaged u/s 37 of the NDPS Act and, therefore, the prayer of the petitioner for bail cannot be acceded to.

7. For the reasons aforesaid, the present petition lacks merit and accordingly the same is dismissed.

-sd/-

20/05/2021

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 JUDICIAL MAGISTRATE NO.II,
BHAVANI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

4 THE INSPECTOR OF POLICE,
ANTHIYUR POLICE STATION,
ERODE DISTRICT.

CC to M/S M.MANO HAR Advocate on payment of necessary charges

CRL OP.9503/2021

Date :20/05/2021

TA-28/06/2021

<https://hcservices.ecourts.gov.in/hcservices/>