

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

| Reserved on | Pronounced on |
|-------------|---------------|
| 17.06.2021  | 23.06.2021    |

**CORAM**

**THE HONOURABLE MR. JUSTICE M.DHANDAPANI**

**CRL. O.P. NOS.9954, 9955, 9957, 9965, 9956, 9790,  
10171, 10201, 10206, 10208 & 10203 OF 2021**

**CRL. O.P. NO.9954 OF 2021**

B.Ramu

.. Petitioner

**- Vs -**

State, rep. by  
The Inspector of Police  
Erode Town Police Station  
Erode District.

.. Respondent

Crl. O.P. No.9954 of 2021 filed under Section 438 Cr.P.C. praying this Court to enlarge the petitioner on bail in connection with Crime No.235 of 2021 pending on the file of the respondent.

For Petitioners : Mr. G.Mohanakrishnan  
Mr. G.Peranban

For Respondent : Mr. A.Gopinath, GA (Crl. Side)

**COMMON ORDER**

In the above batch of petitions, there are totally five petitioners, who are alleged to have been involved in the offences u/s 8 (c) r/w 20 (b) (ii) (c) and 29 (1) of the Narcotic Drugs & Psychotropic Substances Act, for dealing with narcotics substances, which are covered in crime Nos. 223, 224, 235 and 320 of 2021 on the file of the respective respondent/police. The crime relates to different instances, but all involving trafficking of narcotic substances by the accused/petitioners who were working as a group. Apprehending arrest at the hands of the police, the present petitions have been filed by the petitioners praying to enlarge them on bail in the event of arrest.

2. Learned counsel appearing for the petitioners submit that the petitioners have been implicated in the said offence based on the confession statement of the co-accused and that the petitioners have not involved themselves in any of the offences. It is the further submission of the learned counsel appearing for the petitioners that the various instances have been shown in the FIR leading to the arrest of the petitioners and the seizure of contraband, but the statements recorded and the FIR are at variance, which clearly shows that

the whole case is fabricated for the purpose of implicating the petitioners in the offence. It is the further submission of the learned counsel for the petitioners that the informant and the investigator are one and the same and, therefore, the FIR is wholly unsustainable. It is the further submission of the learned counsel for the petitioners that the facts as projected by prosecution is not based on any proper materials and the cases have been foisted against the petitioners. Therefore, learned counsel prays that the petitioners may be enlarged on bail in the event of arrest by imposing even stringent conditions.

3. Per contra, learned Government Advocate appearing for the respondent submits that the petitioners are habitual offenders, who deal in trafficking narcotics and only on the basis of information, and the contraband, which is of commercial quantity has been seized from them. It is the further submission of the learned Government Advocate that the petitioners along with persons, who are still at large, form a very big network, who deal in narcotics, thereby, jeopardizing the lives of many persons. It is the further submission of the learned Government Advocate that the information was provided by the Sub-Inspector of Police and investigation was conducted by the Inspector of Police

and they are two different persons and, therefore, the submission of the petitioners that the informant and the investigator are one and the same is wholly erroneous. It is the further submission of the learned Government Advocate that the quantity involved in the cases are much more than the commercial quantity as specified under the NDPS Act and, therefore, the petitioners are not entitled to bail in view of the bar u/s 37 of the NDPS Act. It is the further submission of the learned Government Advocate that very many cases are pending against the petitioners and all the petitioners have previous cases against them for very same offences and, therefore, granting them anticipatory bail would only lead to the petitioners scuttling the process of investigation which would be detrimental not only to the law and order situation, but also detrimental to the public health and, therefore, he strenuously opposed grant of anticipatory bail to the petitioners.

4. This Court paid its undivided attention to the submissions advanced by the learned counsel on either side and also perused the materials available on record.

5. The crime numbers in which the petitioners have been arrayed as accused relate to many instances in which the petitioners have participated in the trafficking of narcotics. The petitioners were apprehended by the respective respondent police resulting in the registration of the crime. Though very many grounds have been raised by the petitioners relating to the contradictions in the FIR and the statements recorded from the accused/petitioners and other witnesses, however, it is to be pointed out that in the present case, this Court is concerned only with *prima facie* satisfaction and it is not necessary to enter into the domain of the trial court for appreciating each and every contradiction to the benefit of either of the parties. Those are matters, which the petitioners have to raise at the time of trial and not at the stage of grant of bail, more so in cases involving law and order and public health.

6. The materials on record further reveal that the petitioners were apprehended on the information of the Sub Inspector of Police. Though it is the contention of the petitioners that the informant is the person, who is investigating the case, however, no material whatsoever is placed before this Court to substantiate the said contention. Without there being any material to

justify the said submission, this Court would not be justified in dealing with the same, more especially in view of the fact that it is the categorical case of the respondent that information was given by the Sub Inspector of Police and investigation is being handled by the Inspector of Police. In such a backdrop, this Court is not inclined to deal with the said contention raised by the petitioners at this point of time.

7. A perusal of the counter affidavits submitted by the respective respondent police reveals that very many previous cases pertaining to trafficking in narcotics are pending against the petitioners. It is to be pointed out that drugs is one of the spoilers of the present generation and drug peddlers are enticing the younger generation into a web of evil which totally shatters the life of the younger generation. The youngsters of the present generation, without any knowledge of the evil that is to engulf them and without realising the harmful effects of the narcotics, start consuming them, thereby, their life is pushed into peril. This Court, not only as the custodian of justice, but as a watchdog of the functioning of the other arms of the Constitution, is also ordained with the task of overlooking the law and order scenario, which is necessary for safeguarding the

public health. In such scenario, it becomes imperative upon to Court to see that trafficking in drugs is put an end to. However, from the counter of the respondents, it is evident that the petitioners are habitual offenders and there are very many previous cases of the same nature pending against them. In such a scenario, public health and morality takes a upper hand while exercising discretion to the benefit of the petitioners. Therefore, taking into consideration the fact that the petitioners are habitual offenders, the petitioners are not entitled to any leniency at the hands of this Court.

8. Further, while opposing grant of anticipatory bail, it is the vehement submission of the learned Government Advocate that the quantity of contraband seized from the petitioners is even way beyond the commercial quantity and, therefore, Section 37 of the NDPS Act squarely gets attracted, which prohibits grant of bail.

9. A perusal of the materials available on record reveals that the quantity of contraband seized from the petitioner is a commercial quantity and even much beyond the commercial quantity and, therefore, the bar u/s 37 of the NDPS Act

prohibiting grant of bail squarely gets attracted. In such view of the matter, this Court is of the considered view that the prayer for grant of anticipatory bail cannot be acceded to.

10. For the reasons aforesaid, this Court is of the considered view that the petitioners are not entitled to grant of anticipatory bail and, accordingly, all the criminal original petitions fail and the same are accordingly dismissed.

**23.06.2021**

Index : Yes / No

Internet : Yes / No

GLN

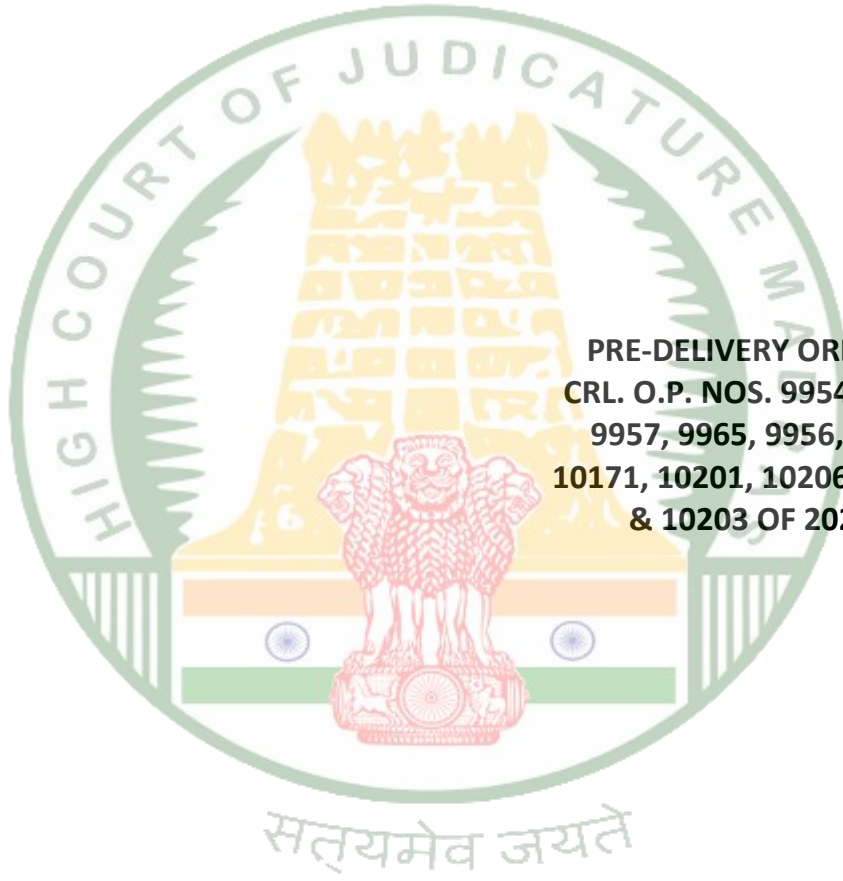
To

1. The Inspector of Police  
Erode Town Police Station  
Erode District.

2. The Public Prosecutor  
High Court, Chennai.

**M.DHANDAPANI, J.**

**GLN**



**PRE-DELIVERY ORDER IN  
CRL. O.P. NOS. 9954, 9955,  
9957, 9965, 9956, 9790,  
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