



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 21/06/2021

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PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD) . No.2426 of 2021

Paraman ... Petitioner/Accused
Rank not known
Vs

State rep.by,
The Inspector of Police,
NIB CID,
Nagapatinam.
Crime No.5 of 2020.

... Respondent/Complainant

For Petitioner : Mr.S.Mahendrapathy,
Advocate.

For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory Bail in Crime No.5 of 2020 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/accused rank not known, who apprehends arrest at the hands of the respondent police for the offence punishable under Sections 8(C), 22(b)(ii)(C), 29 (1) and 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985, in Crime No.5 of 2020 on the file of the respondent police, seeks anticipatory bail.

2.Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side).

3.The case of the prosecution is that on 07.02.2021, at about 00.30 hours, when the respondent police engaged in checking for the illegal possession and transportation of Narcotic Drugs and Psychotropic Substances near Nyanam Nagar Bus Stop, Nagapattinam Bypass Road, Tanjore, they found the vehicle bearing Registration No.TN 49 BH 9369. After completing the necessary formalities, the



respondent police found that there were 11 packets each containing 2 kgs of Ganja, totally 22 kgs of Ganja. Therefore, the respondent police seized the contraband and registered a case against all the accused, namely, Rajendran, Pandiyarajan and Sathishkumar, who were the occupants of vehicle.

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4.The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that on the basis of the confession statement of the co-accused, this case was registered against the petitioner and also his name is not found in the FIR. Therefore, he seeks anticipatory bail.

5.The learned Government Advocate(Crl.Side) appearing for the respondent opposes this petition on the ground that this case involves possession of commercial quantity of Ganja. There is a bar under Section 37 of the NDPS Act for granting bail/anticipatory bail to the petitioner. He further submits that the anticipatory bail petition filed by the co-accused, Pandiyarajan was dismissed by this Court on 30.04.2021 and the petitioner is a supplier of Ganja and he is Uncle of the second accused.

6.As rightly pointed out by the learned Government Advocate (Criminal Side), in case of involving commercial quantity, if there are reasonable grounds for believing that the accused is not guilty of such offence and that he is not likely to commit any offence, the accused would be granted bail. For granting anticipatory bail, the conditions stipulated under Section 37 of the NDPS Act should be applied with all more seriousness. Section 29 of the NDPS Act deals with punishment for abetment and criminal conspiracy. The allegation against the petitioner is that he is the supplier of Ganja. This aspect would have to be proved only in the trial. Confession of co-accused is relevant under Section 27 of the Indian Evidence Act. In this case, the petitioner has not made out reasonable grounds for believing that the accused is not guilty of such offence. With regard to the next condition that he is not likely to commit any offence while on bail, nobody can guarantee this.

7.Considering the facts and circumstances of the case and the fact that the petitioner has not satisfied the condition prescribed under Section 37 of the NDPS Act, this Court is not inclined to grant anticipatory bail to the petitioner. Accordingly, this Criminal Original Petition is dismissed.

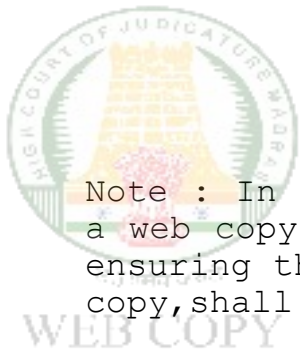
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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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 concerned.

TO

1. THE INSPECTOR OF POLICE,
NIB CID, NAGAPATINAM.
2. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.2426 of 2021
Date : 21/06/2021

SM

PK/AKM/SAR-IV/28.06.2021 : 3P/3C