



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 01/07/2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD) . No.2805 of 2021

Venkateswaran(Gowtham)

... Petitioner/Sole Accused

Vs

State Rep.by
The Inspector of Police,
Vallam Police Station,
Thanjavur District.
(Crime No.42 of 2021)

... Respondent/Complainant

For Petitioner : Mr.Joseph Jerry,
Advocate.

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

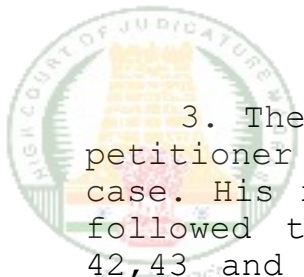
PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :- For Bail in crime No.42 of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/sole accused, who was arrested on 20.01.2021 for the offences punishable under Section 8(c)r/w.20(b)(ii)(C) of NDPS Act in Crime No.42 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 20.01.2021 as per the prior information given by the informant the respondent police visited Minnathuerikari, and they found the accused. On seeing the police he tried to escape. The police party apprehended them. The accused was informed his right to be searched in the presence of Judicial Magistrate or Gazette Officer. The accused consented for search by the police themselves. Thereafter search was conducted and on search in a white colour fertilizer bag possessed by the petitioner the respondent police found 22 kgs of ganja, hence the case came to be registered.



3. The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. His further submission is that the respondent police have not followed the mandatory procedures as contemplated under Sections 42,43 and 50 of NDPS Act and there is a delay in sending the contraband and the First Information Report to the Court, hence he seeks bail.

4. The learned Additional Public Prosecutor opposed the bail petition on the ground that it is a case of possessing commercial quantity of ganja and the respondent police has also followed the mandatory procedures.

5. With regard to the submission of the learned counsel for the petitioner that the respondent police has not observed the mandatory procedures under Sections 42,43 and 50 of the NDPS Act, these are the matters for consideration at the time of trial and these aspects cannot be gone into at the time of considering bail. So far as the illegal possession of commercial quantity of ganja is concerned grant of bail is governed by Section 37 of the Narcotic Drugs and Psychotropic Substances. Only if the accused satisfies the Court that there are reasonable grounds for believing that the accused is not guilty of such offences and that he is not likely to commit any offence while on bail the accused is entitled for bail. In the case on hand, 22 kgs of ganja was recovered from this petitioner. There is *prima facie* material available to prosecute the petitioner for illegal possession of ganja. The petitioner has not satisfied the twin conditions as laid down under Section 37 of the NDPS Act, hence this Court is not inclined to grant bail to the petitioner.

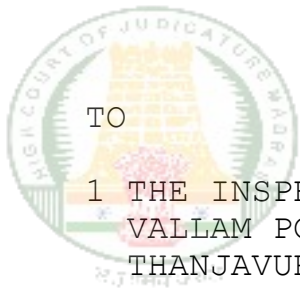
6. In the result, the petition stands dismissed.

sd/-
01/07/2021

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/ /2021
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,
VALLAM POLICE STATION,
THANJAVUR DISTRICT.

2 THE SUPERINTENDENT, CENTRAL PRISON,
TRICHY.

3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.2805 of 2021

Date : 01/07/2021

AAV

MS/JC/SAR-5/05.07.2021/3P.4C