



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 23/06/2021

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PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD). No.2812 of 2021

K.Mareeshwaran

... Petitioner/Accused No.3

Vs

State Rep. by
The Inspector of Police,
Karimedu Police Station,
Madurai City,
in Crime No.1403 of 2020.

... Respondent/Complainant

For Petitioner : Mr.Sathish Kumar.K.,
Advocate.

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

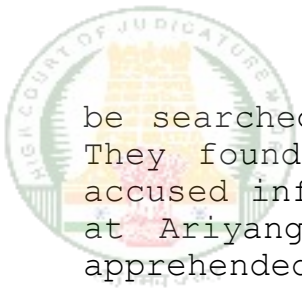
PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :- For Bail in crime No.1403 of 2020 on the file of the respondent police

ORDER : The Court made the following order :-

The petitioner/A3, who was arrested on 20.09.2020 for the offences punishable under Section 8(c) 20(b)(ii)(C), 25 and 29(1) of NDPS Act in Crime No.1403 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 20.09.2020 on information that a car bearing Reg.No. TN 81 V 7674 was used for transporting ganja illegally the police party were waiting near Muddukkusalai, Tenkasi to Madurai. At about 15.30 hrs the aforesaid car came to the place and the police party stopped the car. On seeing the police party the occupants in the car tried to escape from there. Further the police party found that Kalimuthu, Muneeswaran, Mareeswaran, Balaji were the occupants in the car. Police party introduced themselves and after observing necessary mandatory procedures and explaining their right to be searched in the presence of the Judicial Magistrate and on their willingness to



be searched by the police a search was conducted by the police. They found two white colour polythene bag in the car dicky. The accused informed the police party that they had purchased 25kg ganja at Ariyangavu and when they were coming with ganja they were apprehended by the police, therefore the case came to be registered.

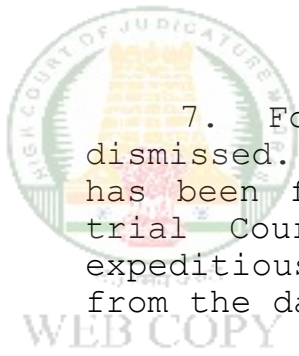
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3. The learned counsel for the petitioner would submit that the petitioner is innocent and it is a put up case against him. He would further submit that no recovery has been made from this petitioner and he has no bad antecedents. He would further submit that he visited Tenkasi only to invite his relative for his wife's baby shower festival. It is his further submission that the first accused in this case was arrested on 19.09.2020 itself, for which he has also produced the copy of the newspaper. He would also submit that earlier the petitioner was detained under Act. 14 and later the same was set aside by this Court. He would further submit that the petitioner is in judicial custody from 20.09.2020, hence he seeks bail.

4. The learned Additional Public Prosecutor appearing for the respondent police would submit that the contraband involved in this case is a commercial quantity and the petitioner was caught red handed with a possession of 25 of ganja which falls under the category of commercial quantity. Further the petitioner has not satisfied the twin condition as stipulated under Section 37 of the NDPS Act. He would further submit that the final report has been filed before the concerned Court and the case is ripe for trial, hence he opposed to grant bail to the petitioner.

5. Section 37 of the NDPS Act governs the grant of bail under the Narcotic Drugs and Psychotropic Substances when the contraband involved falls under the commercial quantity. Only if the accused satisfies the Court that 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 while on bail the accused is entitled for bail.

6. Admittedly in the case on hand the petitioner was one of the occupants in the car from which the said ganja was seized on 20.09.2020. The submission of the learned counsel for the petitioner that there is no recovery made from the petitioner and other aspects with regard to the alleged arrest of the first accused at Courtallam on 19.09.2020 have to be proved only in trial. Newspapers report cannot be considered now and it can be considered only during trial subject to proof. These facts cannot be considered while considering bail. There is *prima facie* case made out by the prosecution that the petitioner was found in possession of 25 of ganja along with other accused. The petitioner has not satisfied the twin conditions as laid down under Section 37 of the NDPS Act for granting bail.



7. For the reasons aforesaid, the bail petition stands dismissed. However taking note of the fact that the final report has been filed in this case and the case is ripe for trial, the trial Court is directed to complete the trial proceedings as expeditiously as possible preferably within a period of three months from the date of receipt of a copy of this order.

sd/-
23/06/2021

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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 JUDGE,
PRINCIPAL SPECIAL COURT FOR EC & NDPS ACT CASES,
MADURAI.
- 2 THE INSPECTOR OF POLICE,
KARIMEDU POLICE STATION,
MADURAI CITY.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.2812 of 2021
Date :23/06/2021

aav
JM/JC/SAR IV/28.06.2021/3P/5C