



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.3733 of 2021

Ganesh Babu @ Ganesh

... Petitioner/Accused No.1

Vs

The State rep.by,
The Inspector of Police,
Paramakudi Town Police Station,
Ramanathapuram District.
In Crime No. 96 of 2021.

... Respondent/Complainant

For Petitioner : Mr.R.Aravind Raj,
Advocate.

For Respondent : Mr.Antony Sahaya Prabhar,
Additional Public Prosecutor

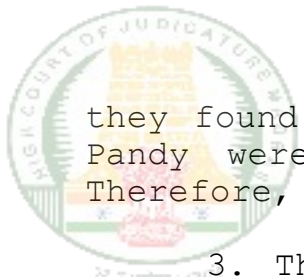
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :- For Anticipatory Bail in Crime No.96 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 8(c), 20(b) (ii) (C), 27 A and NDPS Act, in Crime No.96 of 2021, seeks anticipatory bail.

2. The case of the prosecution is that on 28.01.2021 at about 22.00 hours., the police party, on a prior intimation, was involved in preventing the offences relating to Narcotic Drugs and Psychotropic Substances Act near Meenakshi Hotel opposite to Madurai to Rameshvaram high way. They got information that Ganja is being illegally transported by a car bearing Registration No.TN64-8643. The same car came near Kamudakudi Meenakshi Hotel, On seeking the police party, the car driver stopped the car and one person escaped from there. The police party smelt the Ganja. The police informed the accused about their right to be searched in the presence of Judicial Magistrate or Gazetted Official and on their willingness to be searched by the police party, a search was conducted. The police found 90 kgs of ganja in four sacks. They could nab only Periakaruppan and others escaped. On enquiry from Periakaruppan,



they found that the petitioner along with the other accused namely Pandey were procuring the Ganja and selling to various places. Therefore, this case was registered.

3. The learned Counsel for the petitioner submitted that the petitioner is an innocent and he has been falsely implicated in this case. He further submitted that based on the confession statement of the co-accused the petitioner's name was implicated in this case as accused and there is no recovery from the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the State submitted that the investigation in this case is not yet completed and the petitioner is the most important person in supplying of Ganja. He further submitted that this case involved illegal possession and transportation of 90kg of ganja, which is of a commercial quantity. He further submitted that A4 and A5 were arrested and other accused were still absconding. Unless the petitioner satisfy the conditions under Section 37 of the Narcotic Drugs and Psychotropic Substances Act, the petitioner is not entitled for anticipatory bail. Therefore he prays for dismissal of this petition.

5. It is true that there is no recovery from the petitioner. The petitioner is said to be the most important person in supplying ganja to various places. Admittedly, this case involves 90kg of ganja, which falls under the category of commercial quantity. The case against the petitioner is that he along with the co-accused possessed 90kg of ganja. There is a prima facie material to prosecute the accused for illegal possession and transportation of commercial quantity of ganja. Grant of bail with regard to illegal possession of commercial quantity of ganja is governed by Section 37 of 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 offence and that he is not likely to commit any such offence while on bail, the accused is entitled for bail. Petitioner has not satisfied the twin condition as laid down under Section 37 of the NDPS Act. On the other hand, there is a prima facie material to prosecute the petitioner along with other accused for illegal possession and transportation of commercial quantity of ganja.

6. In view of the above facts and circumstances, this Court is not inclined to grant bail to the petitioner. Accordingly, this Criminal Original Petition is dismissed.

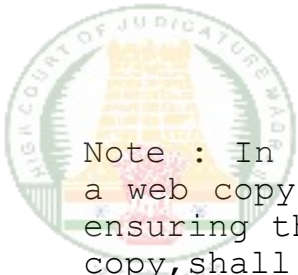
sd/-

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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.

WEB COPY

- TO
1. THE INSPECTOR OF POLICE,
PARAMAKUDI TOWN POLICE STATION,
RAMANATHAPURAM DISTRICT.
 2. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.3733 of 2021
Date : 01/07/2021

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PK/AKM/SAR-III/08.07.2021 : 3P/3C