



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 24/06/2021

PRESENT

The Hon'ble Mr.Justice G.CHANDRASEKHARAN

CRL OP (MD) No.7044 of 2021

1. Raj @ Uyirththa Raj
2. SanthiyaNisman

... Petitioners/Accused
No.4 and 5

Vs

The State Rep. by
The Inspector of Police,
Thangachimadam Police Station,
Ramanathapuram District.
Crime No.70 of 2021.

... Respondent/Complainant

For Petitioners : Mr.Alagumani R,
Advocate.

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

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

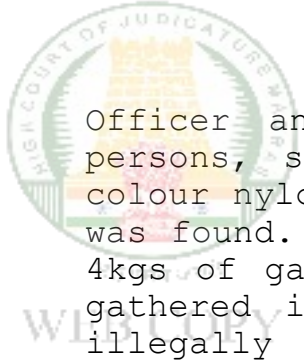
PRAYER :-

For Bail in Crime No.70 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/A4 and A5 , who were arrested on 23.04.2021 for the offences punishable under Section 8(c) and 20(b)(ii)(C), 25 of NDPS Act in Crime No.70 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 23.04.2021 at about 4.30 am., on prior information when the respondent police visited Thangachimadam Maanthoppu Beach found a country boat with name Vetrivizha bearing No. IND TN10 MO 1907 was about to start. They stopped the boat and found five persons namely Francis Prem, Ramesh, Yogaanson, Uyirtharaj and Santhya Nisman inside the boat. The police party introduced themselves and their suspicion that they possess ganja. They also informed the right of the accused to be searched in the presence of the Judicial Magistrate or Gazetted



Officer and on their willingness expressed by all the accused persons, search was conducted by the police. They found a white colour nylon bag printed as suguna foods in which 23 kgs of ganja was found. On enquiry it came to light that each accused purchased 4kgs of ganja and A1 purchased another 3 kgs of ganja and they gathered it in a white colour nylon bag with an intention to illegally transport to Srilanka, therefore this case came to be registered.

3. The learned counsel for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. It is seen from the allegations that each accused had bought 4 kg of ganja and therefore they are entitled for bail. He would further submit that the petitioners are in judicial custody from 23.04.2021, hence he seeks bail.

4. The learned Additional Public Prosecutor appearing for the respondent police opposed the bail petition on the ground that the case was registered only on 23.04.2021 and the investigation not yet completed. He would further submit that the contraband possessed in this case is 23 kgs which falls under the category of commercial quantity. Further the petitioners have not satisfied the twin condition as stipulated under Section 37 of the NDPS Act, hence he opposed to grant bail to the petitioners.

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 petitioners are entitled for bail.

6. It is seen from the allegations made in the First Information Report that all the accused were about to start the boat with 23 kgs ganja to transport the said ganja to Srilanka. Therefore this Court finds that there is *prima facie* case available presuming that the petitioners along with other accused said to have illegally possessed and transported ganja, which falls under the category of commercial quantity. Further, the petitioners have 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.

sd/-
24/06/2021

/ TRUE COPY /

/ /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,
THANGACHIMADAM POLICE STATION,
RAMANATHAPURAM DISTRICT.
2. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.
3. THE OFFICER INCHARGE,
DISTRICT JAIL,
RAMANATHAPURAM.

ORDER
IN
CRL OP(MD) No.7044 of 2021
Date :24/06/2021

AAV
TE/JC/SAR-II : 29/06/2021 : 3P/4C