



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

Date : 29/06/2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD) . No.7394 of 2021

Navaneethan

... Petitioner/Accused No.1

Vs

State rep.by its
The Inspector of Police,
Pattiveeranpatti Police Station,
Dindigul District.
(Crime No.288/2021).

... Respondent/Complainant

For Petitioner : Mr.P.Senguttuarasan,
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.288 of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/A1, who was arrested on 02.05.2020 for the offences punishable under Section 8(c)r/w.20(b)(ii)(C) and 25 of NDPS Act in Crime No.288 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the police party on information with regard to the commission of offence relating to Narcotic Drugs were engaged in preventing offences relating to NDPS Act,near Chitharevu Panchayat Office. They found three persons travelling in two wheeler bearing Reg. No. TN 57 BJ 8413. On seeing the police party they tried to escape. The police party apprehended one Navaneethan and two other persons travelling along with him in the two wheeler. The police party introduced themselves to the accused persons and informed their right to be searched in the presence of Judicial Magistrate or Gazetted Officer. The accused expressed his willingness to be searched by the police party themselves. Accordingly search was conducted and the police found



22kgs of ganja. Thereafter the said ganja was seized along with two wheeler, therefore 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. He further submitted that the respondent police have not complied with the mandatory procedures as contemplated under Sections 42, 50 of the NDPS Act, therefore he seeks bail.

4. The learned Additional Public Prosecutor opposed the bail petition on the ground that the quantity possessed by the petitioner falls under the category of commercial quantity.

5. The submission of the learned counsel for the petitioner and the First Information Report shows that the petitioner was found in illegal possession of 22 kgs of ganja. Two other person who had accompanied him have escaped. As regards the submission of the learned counsel for the petitioner that the respondent police have not complied with the mandatory procedures under Sections 42, 50 of the NDPS Act, these aspects cannot be considered at the time of granting bail. These are matters requiring appreciation at the time of trial.

6. 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 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, the case of prosecution is that the petitioner was caught red handed with 22kgs of ganja, which falls under the category of commercial quantity. Further there is *prima facie* case for prosecuting the petitioner along with other accused for possessing 22 kgs 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.

7. In the result, the petition stands dismissed.

sd/-

29/06/2021

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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



TO

1. THE OFFICER INCHARGE,
SUB JAIL, VIRUDHUNAGAR.
2. THE INSPECTOR OF POLICE,
PATTIVEERANPATTI POLICE STATION,
DINDIGUL DISTRICT.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP (MD) No.7394 of 2021
Date :29/06/2021

aav
AE/MNR/SAR-V/01.07.2021/3P/4C