



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

Date : 10/06/2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD) . No.7583 of 2021

Viji ... Petitioner/Accused No.7

Vs

The State by,
The Inspector of Police,
Cumbum North Police Station,
Theni District.
In Crime No. 37 of 2021.

... Respondent/Complainant

For Petitioner : Mr.R.Balamuruganantham,
Advocate.

For Respondent : Mr.M.Muthumanikkam,
Government Advocate (Crl.Side)

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

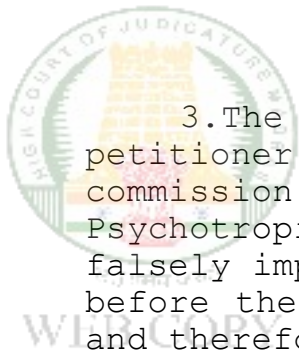
PRAYER :-

For Bail in Crime No.37 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner was arrested and remanded to judicial custody by the respondent police on 02.02.2021 for the offences punishable under Sections 8(c), 20(b)(ii)(C), 29(1) and 25 of NDPS Act, seeks bail.

2.It is seen from the submissions made that on 20.01.2021, at about 11.15 am., when the defacto complainant along with police party were engaged in watching the offences relating to illegal possession and transportation of Nacrotic Drugs and Psychotropic Substances near Cumbamettu Road by-pass junction, they found two cars, two two-wheelers and persons with two bags. On seeing the police party, two persons were escaped in two cars and other two persons were caught red-handed. After completing the necessary and mandatory procedures, they were found in possession of 52 Kgs of Ganja. Therefore, this case came to be registered.



3.The learned counsel for the petitioner submitted that the petitioner is an innocent and he has no role to play for the commission of offence. There is no recovery of Narcotic Drugs and Psychotropic Substance in his possession and therefore, he has been falsely implicated in this case. In fact, the petitioner surrendered before the Court on 02.02.2021 and still he is in judicial custody and therefore, he seeks bail.

4.The learned Government Advocate (criminal side) opposed this petition on the ground that the Ganja involved in this case is of commercial quantity and he seeks bail. Earlier, the bail petition filed by the petitioner was dismissed on 30.04.2021.

5.It is seen from the submissions made that the earlier bail petition was heard and dismissed. Grant a bail under NDPS Act is governed by Section 37 of NDPS Act. The persons seeking bail, has to satisfy two conditions that there are reasonable grounds for believing that the petitioner is not guilty of the offence and the petitioner is not likely to commit any offence while on bail. Here, in this case, there is a seizure of commercial quantity of 52 Kgs of Ganja and F.I.R is also under Section 29 of NDPS Act, which deals with punishment of abetment and criminal conspiracy. The aspects of abatement and conspiracy will be elucidated only at the time of trial. Therefore, merely for the reason that there is no recovery from the petitioner, the petitioner cannot be granted bail automatically. Since the quantity involved in this case is commercial quantity, the aspects alleged by the petitioner can be decided only at the time trial, the petitioner having not satisfied the twin conditions and there are no change of circumstances since the dismissal of the earlier bail petition, this Court is not inclined to grant bail to the petitioner.

6.Accordingly, this Criminal Original Petition is dismissed.

sd/-

10/06/2021

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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 SUPERINTENDENT,
CENTRAL PRISON, MADURAI
2. THE INSPECTOR OF POLICE
CUMBUM NORTH POLICE STATION,
THENI DISTRICT.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.7583 of 2021
Date : 10/06/2021

LS
PK/AKM/SAR-IV/16.06.2021 : 3P/4C