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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 29/06/2021

PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

CRL OP(MD) . No.8144 of 2021

Saro ... Petitioner/Accused No.3
Vs

State Rep. by
The Inspector of Police,
Aathoor Police Station,
Tuticorin District.
Crime No.137 of 2019. ... Respondent/Complainant

For Petitioner : Mr.Praveenkumar P,
Advocate.
For Respondent : Mr.T.Senthilkumar,
Government Advocate (Crl.Side)

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

PRAYER :-

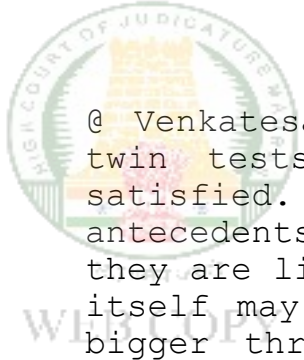
For Bail in Crime No.137 of 2019 on the file of the Respondent Police.

ORDER : The Court made the following order :-

Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Crl. Side) appearing for the respondent.

2. The petitioner was arrested on 28.08.2019 for the offences under Sections 8(c) r/w 20(b), (ii)(B), 29(1) and 25 of NDPS Act, 1985 in Crime No.137 of 2019.

3.The prosecution had filed their final report and the case has been numbered as C.C.No.97 of 2020 on the file of the Special Court, Madurai. The petitioner had earlier filed Crl.O.P.(MD)No.5077 of 2020 for bail. The other accused had also filed bail petitions. All of them were heard together and by common order, dated 31.08.2020, the bail petitions were dismissed. The relevant portions in the said order read as under:-



@ Venkatesan was 294 kg of ganja. Therefore, to grant bail, the twin tests laid down in Section 37 of the NDPS Act must be satisfied. It is true that the petitioners are not having any bad antecedents. Therefore, this Court can safely render a finding that they are likely to commit any offence while on bail. But then, that itself may not be sufficient. The petitioners have to surmount a bigger threshold. This Court must be satisfied that there are reasonable grounds for believing that the petitioners are not guilty of the offence in question.

7. The Police personnel attached to Athoor Police Station, Thoothukudi District, were on their rounds on 21.08.2020 at about 03.00 a.m at Authoor - Serunthapoomangalam Road, near V.V.Minerals Company. They intercepted the vehicle TATA ACE bearing Registration No.TN 04 AK 4762. It was driven by A1-Venkatachalam @ Venkatesan. The said Venkatachalam @ Venkatesan-A1 did not give satisfactory answers to the questions posed by the Police. A search of the vehicle led to the discovery of the contraband which was hidden beneath empty liquor bottles. The contraband was hidden in 12 polythene sacks. The contraband is said to be worth Rs.29,40,000/- in the illegal market. A1 is said to have confessed that he had undertaken the task of transporting the contraband from Mukkanai Roundana to Punnaikayal. He further stated that he was engaged to do so by one Kildan S/o.Ravi Koraira. The contraband was duly seized. The mobile phone with A1-Venkatachalam @ Venkatesan was also seized. The said accused as well as contraband were brought to the Station and Crime No.137 of 2019 was registered.

8. Investigation was undertaken and the call data of A1-Venkatachalam @ Venkatesan as well as A2- Kildan was verified. It then came to be known that A3-Saro had been having regular conversations with A2-Kildan. Based on the same, A3-Saro was arrested and his mobile phone as well as sim card were recovered. It is seen from the statement of LW22-Xavier Ponraj recorded under Section 161 of Cr.P.C that A3-Saro was conspiring with A2-Kildan to transport the contraband. The said Xavier Ponraj has stated that he was working as driver with Ravi Koraira for about 10 years. Thereafter, he has been carrying on independent business with his load auto. Saro-A3 is said to have confessed his involvement in the crime to him. Xavier Ponraj claims that he pulled up Saro-A3 for having involved himself in the nefarious activities of Kildan. Xavier Ponraj had specifically stated that in August 2019, when Xavier Ponraj was going in his load auto past mid night at about 1.45 a.m, he received a call from Saro-A3 on his mobile number bearing 9080079324 from A3-Saro's mobile number bearing 7339159277. Saro-A3 wanted to know if Xavier Ponraj saw any police movement in his route.

9. In view of the call data indicating exchange of calls between A2-Kildan and A3-Saro and the statement of LW22-Xavier Ponraj, I am not in a position to give a finding that A3-Saro is not guilty of the offences in question."



3. There is no change in circumstance. Hence, I am not able to grant any relief to the petitioner herein. This Criminal Original Petition stands dismissed.

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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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,
AATHOOR POLICE STATION,
TUTICORIN DISTRICT.
2. THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP (MD) No.8144 of 2021
Date : 29/06/2021

VB/MNR/SAR.V/01.07.2021/3P/4C