



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

Date : 05/07/2021

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL OP(MD). No.8440 of 2021

Kasthuriyappa

... Petitioner

Vs

The State rep.by
The Inspector of Police,
Kaliyakavilai Police Station,
Kanyakumari District.
Crime No.154/2021.

... Respondent

For Petitioner : Mr.M.M.Krishna Sreethar
Advocate.

For Respondent : Mr.R.M.Anbu Nithi,
Additional Public Prosecutor

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

PRAYER :-

For Anticipatory bail in Crime No.154 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 offence punishable under Section 8 (c) and 20 (b) (ii) (B) of Narcotic Drugs & Psychotropic Substance Act, 1985, in Crime No.154 of 2021 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that on 27.04.2021, when the respondent police conducted inspection based on secrete information, they found that the accused were in possession of 1.5 kg of Ganja. Hence, this petition.

3.The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He further submitted that the contraband, seized by the respondent, is only 1.250 kg. It is a small quantity and hence, there is no bar, under Section 37 of the NDPS of the Act. Hence, he prayed for grant of anticybatory bail to the petitioner.



4. The learned Additional Public Prosecutor appearing on behalf of the respondent police would submit that the petitioner herein, is arrayed as A5. The respondent police found that the petitioner and the other accused persons having 1.5 kg of Ganja and hence, he opposed to grant anticipatory bail to the petitioner.

5. Heard both sides.

6. It is seen that the earlier anticipatory bail application, filed by the petitioner in Crl.OP(MD)No.6844 of 2021, was dismissed, on 19.05.2021, on the ground that the quantity involved in the case is huge and the petitioner has not satisfied the requirements, under Section 37 of the NDPS Act. Hence, this second application was filed on the ground that the contraband that has been seized only 1.250 kg and it is a small quantity and so, bar under Section 37 of the NDPS of the Act, does not attract.

7. The learned Additional Public Prosecutor was directed to be produce CD file and the same was produced.

8. As per reading of the First Information Report, on the spot, three accused persons were arrested. The petitioner and the another one person escaped from the scene of occurrence. The amount of the contraband seized, was mentioned as 1.250 kg. The another accused person, who escaped from the scene of occurrence, has filed a anticipatory bail in Crime No.8399 of 2021. But, later he was also arrested and remanded to judicial custody. It appears that only this petitioner is at large. Even though, the contention on the part of the petitioner that it is not a commercial quantity is acceptable, considering the fact that the petitioner escaped from the scene of occurrence and all other co-accused were arrested, there is no ground, is been made out by the petitioner, for granting anticipatory bail to him. The age of the petitioner i.e., 63 is not a ground for considering this petition. So, the petitioner is not entitled for discretionary relief of anticipatory bail.

9. Considering the nature of the allegation and considering the quantity of the contraband, this Court is not inclined to grant anticipatory bail to the petitioner.

10. With the above observations, this petition deserves dismissal and accordingly, the same is dismissed.

sd/-
05/07/2021

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/ /2021

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



TO

1. THE INSPECTOR OF POLICE,
KALIYAKAVILAI POLICE STATION,
KANYAKUMARI DISTRICT.

2. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.8440 of 2021

Date : 05/07/2021

DSS

TK/VR/SAR.3/07.07.2021/3P/3C