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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 29/07/2021

PRESENT

The Hon'ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD) . No.9246 of 2021

John Justin @ Chatni

... Petitioner/Accused No.3

Vs

The State Rep. by,
The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari District.
(Crime No.353 of 2021).

... Respondent/Complainant

For Petitioner : Mr.M.Suri,
Advocate.

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

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

PRAYER :-

For Anticipatory bail in Crime No.353 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/A3, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 8[c] and 20[b][ii][C] of Narcotic Drugs and Psychotropic Substances Act, 1985, in Crime No.353 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that on 04.07.2021 at about 07.00 hours, when the de-facto complainant was in the police station, secret informant informed him that one Srikrishnan, Samy, John Justin would bring ganja to Kanyakumari and he came forward to identify them. The de-facto complainant recorded this information



and intimidated to his superior. Then, along with the police party and with necessary equipments, they proceeded to the place identified by the secret informant at Narikulam bridge on the way to Mahathanapuram Roundana to Anjugramam Village at 07.15 a.m. They found three persons with a white sack identified as the accused Srikrishnan, Samy, John Justin. On seeing the police, this petitioner escaped from there. The police apprehended the other accused and informed them about the information that they are in possession of ganja. They were also informed their right of being searched in the presence of Judicial Magistrate or Gazetted Officer and on their willingness to be searched by the police, a search was conducted and in the white sack they found 21kgs of ganja. Therefore, this case came to be registered.

3.The learned counsel for the petitioner submitted that the petitioner is innocent and he has been falsely implicated in this case. He further submitted that the petitioner had some previous cases pending against him and he was acquitted in all those cases. However, the Kanyakumari Police had repeatedly visited his house and harassed the petitioner and his family members. Therefore, his wife sent a representation to Deputy Inspector General of Police, Madurai on 26.11.2020 and also filed a petition in Crl.O.P.(MD)No.3969 of 2021 seeking the relief of not to harass her and her family members. That was also ordered. Subsequently, the petitioner's wife came to know about the filing of this case and she gave a complaint on 05.07.2021 to the respondent police alleging that her husband was falsely implicated in this case. These documents show that her husband/petitioner is falsely implicated in this case. Therefore, he seeks anticipatory bail to the petitioner.

4.The learned Government Advocate (Criminal side) opposed this petition on the ground that the quantity involved in this case is a commercial quantity of ganja and the accused should satisfy the twin conditions for granting anticipatory bail under Section 37 of the NDPS Act. Therefore, he seeks dismissal of this petition.

5.As rightly pointed out by the learned Government Advocate (Criminal side), this is a case involving commercial quantity of ganja. The accused has to make out a case that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any such offence while on bail and only then the accused is entitled for bail. This is a case, where the petitioner along with the co-accused said to have been found in illegal possession of 21 kgs of ganja. On seeing the police, he said to have fled from there. As pointed out by the learned counsel for the petitioner, there is no direct recovery from the petitioner. However, it is alleged that he was also found along with other accused with commercial quantity of ganja and escaped on seeing the police. This case has to be investigated by the police. Investigation is in preliminary stage and the First Information Report was registered only on 04.07.2021.



6. Taking all these facts and circumstances of the case, this Court is not inclined to grant anticipatory bail to the petitioner. Hence, this petition is dismissed.

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sd/-
29/07/2021

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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 INSPECTOR OF POLICE,
KANYAKUMARI POLICE STATION,
KANYAKUMARI DISTRICT.
2. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.M/S.M.SURI, Advocate (SR-4945[I] dated 30/07/2021)

ORDER
IN
CRL OP(MD) No.9246 of 2021
Date :29/07/2021

sj
USK/JM/SAR-I : 03/08/2021 : 3P/4C