



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.9717 of 2021

1. Britto
2. Victor

... Petitioners/Accused No.1 & 2

Vs

State Rep.by
The Inspector of Police,
NIB CID, Thoothukudi Police Station.
(Crime No.10 of 2021).

... Respondent/Complainant

For Petitioners : Mr.S.Vigneswaran,
Advocate.

For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor

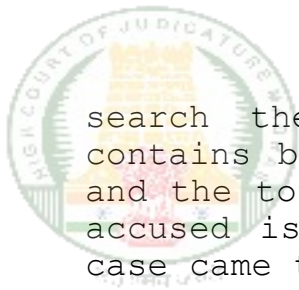
PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :- For Bail in Crime No.10 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/accused, who were arrested on 12.04.2021 for the offences punishable under Section 8(c) 21(c), 25 & 29(1) of NDPS Act in Crime No. 10 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 11.04.2021 the defacto complainant got secret information that two persons are likely to illegally transport narcotic substances in a two wheeler bearing Reg. No. TN 01 AJ 4520. He recorded the information and then after sending information to his superior he proceeded along with police party and lay in wait near Old toll gate, Pudukottai in Tuticoin to Tirunelveli road. At about 21.00 hrs a vehicle bearing Reg. No. TN 01 AJ 4520 had come. Two persons were the occupants in the vehicle and they are Britto and Victor. On seeing the police they tried to escape the police nabbed them. The police introduced them to the accused persons and informed their right to be searched in the presence of Judicial Magistrate or Gazetted Officer. The accused expressed their willingness to be searched by the police. On



search the police found three silver colour cover. The cover contains black green colour oil. The oil found to be Hashish oil and the total weight of the oil found to be in possession with the accused is 3 kg. Thereafter the petitioner was arrested and the case came to be registered.

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3. The learned counsel for the petitioners would submit that the petitioners are innocents and they have been falsely implicated in this case. He would further submit that though the petitioners are nabbed and contraband was recovered in the street no independent witnesses have been examined. He would further submit that the petitioners are in judicial custody from 12.04.2021, hence he seeks bail.

4. The learned Addition Public Prosecutor appearing for the respondent opposed the bail petition on the ground that the investigation is not yet completed. He would further submit that the quantity of Hashish Oil involved in this case is 3 kgs which is a commercial quantity. He further submitted that all the mandatory procedures contemplated under the NDPS Act have been complied with and there is a bar under Section 37 of the NDPS Act for granting bail in cases of commercial quantity and the petitioner has not made out any case for grant of bail under Section 37 of NDPS Act, hence he opposed to grant bail to the petitioners.

5. It is true that in case of commercial quantity 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 offence and that he is not likely to commit any such offence while on bail, the accused is entitled for bail. In the case on hand, the case of the prosecution is that the petitioners were found in illegal possession of 3 Kgs of Hashish oil, which is the commercial quantity. The petitioners have not satisfied the twin condition as stipulated under Section 37 of the NDPS Act. The petitioners are caught red handed with illegal possession of 3 kgs of Hashish oil. There is *prima facie* case made out against the petitioners for prosecuting them, hence this Court is not inclined to grant bail to the petitioners.

6. In the result, the bail petition stands dismissed.

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.

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TO

- 1 THE INSPECTOR OF POLICE,
NIB CID, THOOTHUKUDI POLICE STATION.
- 2 THE SUPERINTENDENT, CENTRAL PRISON,
PALAYANKOTTAI.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.9717 of 2021
Date :29/07/2021

AAV
MS/VR/SAR-4/02.08.2021/3P.4C