



WEB COPY

No. 13973 of 2020

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

Reserved on :18.03.2021

Pronounced on: 22.03.2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) . Nos.13973 and 13674 of 2020

1. Muruganandham
2. Thaiyumanasamy

... Petitioners/Accused Nos.7 & 8
in Crl OP(MD) No. 13973 of 2020

Lakshmanan

... Petitioner/Accused No.9
in Crl OP(MD) No. 13674 of 2020

Vs

The State rep.by
The Inspector of Police,
Athoor Police Station,
Thoothukudi District.
Crime No. 137 of 2019

... Respondent/Complainant
in both the petitions

For Petitioner : Mr.S.Prabhu, Advocate.
In Crl.O.P(MD) No.13973 of 2020

: Mr.M.Lingadurai, Advocate.
In Crl.O.P(MD) No.13674 of 2020

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)
in both the petitions

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

COMMON PRAYER :-

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

<https://hcservices.ecourts.gov.in/hcservices/>



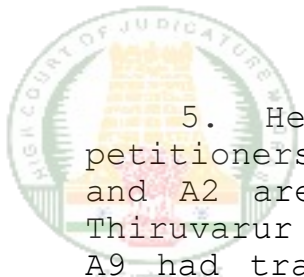
COMMON ORDER : The Court made the following order :-

The petitioners/A7,A8 and A9 were arrested and remanded to judicial custody on 21.08.2019 for the offences punishable under Sections 8(c) r/w.20(b)(ii)(c), 29(1) and 25 of NDPS Act on the file of the respondent police seek bail.

2.The case of the prosecution is that 21.08.2019 at about 3.00 am., when the respondent police was on usual rounds they saw the empty quarter bottles being transported in a TATA Ace vehicle bearing Reg. No. TN 04 AK 4762 and on suspicion they stopped the vehicle. After complying all the usual formalities with the consent of the driver search was conducted and in the search they found the petitioners in possession of 294 kgs of ganja. Thereafter the said ganja was seized and the accused were remanded. Hence the complaint.

3.The learned counsel for the petitioners would submit that the petitioners have been falsely implicated in this case and all the witnesses are only official witness in this case. He would also submit that mandatory provisions have not been followed in this case and the contraband were not seized from the petitioners, the samples were not taken in time. He would also submit that the respondent police has not followed the mandatory provisions as per sections 42(ii),50 and 57 of NDPS Act. He would also submit that the petitioners have been falsely implicated in this case and they are in judicial custody from 21.08.2019. He would also submit that the investigation in this case is completed and the final report has been filed before the Special Court for EC and NDPS Act Cases, Madurai and the case is pending trial, hence he seeks bail.

4. The learned Government Advocate (Crl.Side filed a counter and submitted that there are totally 13 accused in this case and the petitioners herein are arrayed as A7 to A9 and the petitioners herein confessed about the nexus with A5, A10, A12, A7, A4 and A6 and further the petitioners herein were keeping watch over the movement of the contraband throughout the entire transaction and they played active role in the above crime. They escorted the contraband for free passage. He would also submit that there is larger conspiracy behind the possession and further it has been procured for the purpose of transporting to Srilanka through Lakshmanan. Further the said ganja was transported in A5's car bearing Reg. No. TN 18 X 0919 Xylo Car from Poondi Village of Thanjavur District to the bottle company of A6 at Thiruvandudurai Village of Thiruvavarur District . In the said incident A8 along with A7 came in a car bearing Reg. No. TN 11 Q 7041 and after reaching the destination they shifted ganja with the help of other accused to A6.



5. He would further submit that from the beginning the petitioners have contact with other accused and especially A5, A12 and A2 are transporting the ganja from from Thiruvandudurai of Thiruvavarur District to Mukkani roundana of Thoothukudi District. A9 had travelled in the Indica Car bearing Reg. No.TN 11 Q 7041 along with A7 and A8. Further A9 has also received Rs.1,50,000/- from A12 for each transport and in his confession he has narrated the entire sequences. In this case three persons are still absconding. Further the petitioners have not made a ground satisfying Section 37 of the NDPS Act. He would also submit that investigation in this case is completed and charge sheet has been filed before the Sessions Judge/Special Judge under E.C.Act cases, Madurai and the same is pending trial in C.C.No.97 of 2020, hence he strongly opposed to grant bail to the petitioners.

6. It is seen that there are totally 13 accused in this case and three accused are still absconding. Further the contraband was transported in a lorry from Andhra to Trichy and thereafter the petitioners herein has escorted the vehicle in the Xylo Car. A1 is the owner of Xylo Car and from Trichy the contraband was taken to Poondi Village of Thanjavur District to Thiruvandudurai Village of Thiruvavarur District and from there it was transported to Thoothukudi for smuggling to Srilanka. The petitioners have travelled in the xylo car to safeguard the contraband and safely transport it to Srilanka via Thoothukudi.

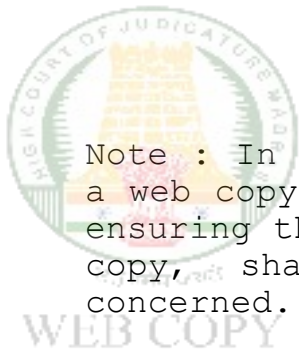
7. Further the contraband possessed by the petitioners falls under commercial quantity. All the grounds raised by the petitioners can be considered only during trial not at the stage of granting bail. In the light of Section 37 of the NDPS Act the petitioners fail to satisfy the twin test as contemplated under Section 37 of the NDPS Act, the petitioners are not entitled for bail. From the CDR details it is seen that the all the accused have contact with each other on several occasions and they are frequently transporting ganga. Investigation in this case completed and charge sheet has been filed before the Sessions Judge/Special Judge under E.C.Act cases, Madurai and the same is pending trial in C.C.No.97 of 2020, hence this Court is not inclined to grant bail to the petitioners.

8. In the result, both the petitions stand dismissed.

sd/-
22/03/2021

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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 OFFICER INCHARGE,
DISTRICT JAIL, MADURAI.
- 2 THE INSPECTOR OF POLICE,
ATHOOR POLICE STATION,
THOOTHUKUDI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP (MD) . Nos.13973
and 13674 of 2020
Date :22/03/2021

aav
AE/SMA/ (25/03/2021) 4P / 4C