



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

Date : 08/10/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) No.14259 of 2021

Ayyarkalai @ Ayyar

... Petitioner/Sole Accused

Vs

The State Represented by
The Inspector of Police,
Ambathurai Police Station,
Dindigul District.

[Crime No.6 of 2021]

... Respondent/Complainant

For Petitioner : Mr.M.Jagadeesh Pandian, Advocate.

For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor

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

PRAYER :-

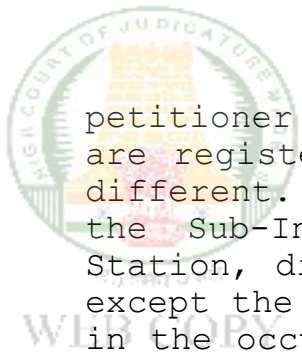
For Bail in Crime No.6 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner, who was arrested in connection with Crime No.6 of 2021 on the file of the respondent Police for the offence under Sections 8(c) r/w 20(b) (ii) (C) of NDPS Act and remanded into judicial custody, moved this bail application for grant of bail.

2.The case of the prosecution is that on 03.01.2021 on receipt of secret information, the Sub-Inspector of police visited a bush, situated adjacent to the house of the petitioner Ayyarkalai at A.Vellodu village at about 07.45 hours and found the petitioner carrying white coloured gunny bag on his head, after search, by complying with Section 50(1) of NDPS Act they found it was ganja of 20.100 Kgs and the same was seized after taking samples from it. Subsequently, confession statement was recorded from the petitioner and athachi was prepared. Thereafter, the petitioner was arrested and remanded to judicial custody.

3.The learned Counsel for the petitioner submits that the petitioner is the sole accused in this case. It is a foisted one, since on the same day another false case is registered against the



petitioner in Crime No.7 of 2021 at about 12.00 hours. Both cases are registered at the same time, whereas the occurrence places are different. The time of inspection in both the cases would prove that the Sub-Inspector of Police attached to the respondent Police Station, did not conduct the inspection in both the cases. Further, except the confession, other documents alleged to have been prepared in the occurrence place are computer printed documents and they are not handwritten and no witness has stated about the preparation of those documents. The contraband was seized on 03.01.2021, but it was produced before the Court concerned after much delay.

4.The learned Counsel further submits that the petitioner was arrested and remanded to judicial custody on 03.01.2021 and he is in jail for the past nine months and moreover, final report has also been filed in this case.

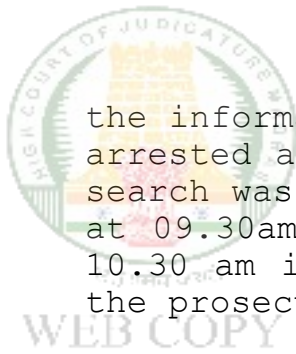
5.The learned Additional Public Prosecutor appearing for the respondent submits that the petitioner was found in possession of 20.100 Kgs of ganja carrying in a gunny bag and he was arrested. The respondent Police have also arrested two other persons namely Sathaayee @ Santhayee and Gnana Soundari for illegal possession of ganja of 1.100 Kgs each. In the confession statement, it is stated that they have purchased the contraband from this petitioner and therefore, the second case in Crime No.7 of 2021 came to be registered against the petitioner.

6.The learned Additional Public Prosecutor further submits the petitioner is involved in yet another case also in Crime No.40 of 2017, registered for the offence under Sections 341, 294(b), 332 and 307 IPC. Therefore, he opposes grant of bail.

7.Heard the learned Counsel on either side and perused the materials placed on record.

8.Though the learned Counsel for the petitioner submits that both these cases in Crime Nos.6 of 2021 and 7 of 2021 were registered on the same day on 03.01.2021, the fact remains that the petitioner is arrayed as accused in the similar case, apart from this case. In this case, 20.100Kgs of ganja were recovered from the petitioner. The learned Counsel for the petitioner submitted that the quantity would itself expose that this case has been foisted to make it as a case of commercial quantity and to detain the petitioner in the prison.

9.The athachi in Crime No.6 of 2021 on the file of the respondent police was recorded at about 10.30 am and at the same time, the contraband in Crime No.7 of 2021 was recovered. Though the time of recovery is mentioned as 10.30am in the recovery mahazar, reading of the FIR would show that on 03.01.2021 the police official received the information at 7.00am, went to the place of occurrence and recovered contraband at 10.00am. Thereafter, on the



the information received from the petitioner, the other accused were arrested at about 10.30 am. All other documents would disclose that search was made at about 08.30 am, confession statement was recorded at 09.30am, recovery was also made at 10.00am. The reference about 10.30 am in the recovery Mahazar alone cannot disprove the case of the prosecution and it is a matter for trial.

10.In view of the provision under Section 37 of NDPS Act, considering the quantity of the contraband involved in this case and the antecedents of this petitioner, this Court is not inclined to grant bail to this petitioner at this stage.

11.In the result, this petition is dismissed.

sd/-

08/10/2021

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

dsk

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 INSEPCTOR OF POLICE,
AMBATHURAI POLICE STATION,
DINDIGUL DISTRICT.
- 2 THE SUPEINTENDENT,
CENTRAL PRISON,
MADURAI.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.14259 of 2021

Date :08/10/2021

PKP/JM/SAR-3/21.10.2021/3P/4C