



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Eleventh day of March Two Thousand Twenty Two

PRESENT

The Hon`ble Dr Justice G. JAYACHANDRAN

CRIMINAL ORIGINAL PETITION No.5081 of 2022

YUVARAJ @ KAISAMON

[PETITIONER / ACCUSED]

Vs

THE STATE BY
THE INSPECTOR OF POLICE,
H-3, TONDIARPET POLICE STATION,
CHENNAI.
(CRIME NO.1212/2021)

[RESPONDENT]

For Petitioner : M/S.J.P.RAVIVARMAN Advocate

For Respondent : Mrs.G.V.KASTHURI, Additional Public Prosecutor

PETITION FOR BAIL 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner who was arrested at the hands of the respondent police for the alleged offences under sections 8(c) read with 20(b) (ii) (B), 22(c), 25 and 29(1) of the NDPS Act, 1985 r/w. Sections 147, 148 of IPC in Crime No.1212 of 2021 seeks bail.

2. The petitioner herein is one of the named accused in Crime No. 1212 of 2021, wherein the respondent police had recovered 1.5 Kgs of Ganja and 1125 Nos. of Nitrovet tablets weighing about 876 grams, when the riding party tried to apprehend the accused persons, A1 and A2 were caught with the contraband, the other three accused fled from the scene and therefore they were shown as absconding accused.

3. This petitioner was arrayed as A3, absconding accused. Later, when the petitioner was arrested for some other I.P.C. offences, the Investigating Officer in this case, took PT warrant from the Court and produced him before the Special Court, later a formal arrest was shown on 03.01.2022.



4. The learned counsel for the petitioner would submit that, the contraband was recovered from the petitioner was not in the scene of occurrence, and hence he was wrongly implicated in this case. Even according to him, A1 and A2 from whom the contraband was seized informed the police that the person who fled from the scene is Yuvaraj @ Kaisamon of Tondiarpet during the settlement whereas the petitioner herein is a resident of Athipattu for long years and therefore there is mistaken identity.

5. The learned Counsel would further submit that, the FIR itself indicates that the contraband seized were supposed to be equally divided among themselves and if that is taken into account, the contraband seized will fall below the commercial quantity and hence Section 37 of NDPS Act will not attract in this case.

6. The learned Additional Public Prosecutor has filed a detailed counter in this case narrating the above said facts. She submitted that the petitioner is an absconding accused who was subsequently secured. The overt act against him is for conspiring with the other accused to procure, possess and sell the Narcotic Drugs above the commercial quantity. Further, she would submit that the entire contraband has got in one bag and that has been recovered from A1, who was having physical possession.

7. In view of the Section 54 of the NDPS Act and the statement of the person from whom the contraband was recovered, it clearly indicates that the petitioner herein had conscious possession of the contraband and fled away from the scene on seeing the riding party.

8. On perusal of FIR and hearing the learned counsel for the petitioner and the learned Additional Public Prosecutor, it founds that the contention raised by the learned counsel for the petitioner are not sufficient and substantiated for considering the bail petition and to get satisfy with the twin condition imposed under Section 37 is not required in this case.

9. In view of the above fact, this Criminal Original petition is dismissed.

-sd/-
11/03/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.



TO

1 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

2 THE INSPECTOR OF POLICE,
H-3, TONDIARPET POLICE STATION,
CHENNAI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.J.P.RAVIVARMAN Advocate on payment of necessary
charges

CRL OP.5081/2022

Date :11/03/2022

RW 22/03/2022