



WEB COPY

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

Dated: 15/02/2022

PRESENT
The Hon'ble Mr.Justice G.ILANGOVAN

Cr1.OP(MD)No.2675 of 2022

Mathavan

... Petitioner/Accused No.4

Vs.

State rep. By
The Inspector of Police,
Kenikkarai Police Station,
Ramanathapuram District.
(Crime No.772 of 2021)

... Respondent/Complainant

For Petitioner : M/s.G.Karuppasamy Pandiyan, Advocate

For Respondent : M/s.SS.Madhavan
Government Advocate (Criminal side)

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

PRAYER :-

For Bail in Crime No.772 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who is arrayed as A4 was arrested on 04/10/2021 and remanded to judicial custody for the offences punishable under sections 8[C] & 20(b)(ii)[c] of NDPS Act, in Crime No.772 of 2021 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on receiving secret information, the respondent police way laid the Car bearing registration No.TN-04-P-06118, wherein the accused persons possessed with 23 kgs of ganja. Hence, the case has been registered.



4.The earlier bail application that was filed by the petitioner came to be dismissed by this court on the ground that since the final report is ready to be filed before the concerned Special Court, the petitioner can approach the concerned court for appropriate relief. It is also further observed that considering the commercial quantity involved in the occurrence, he is not entitled for bail. But however, the above said liberty was granted to the petitioner. In pursuance of the above said liberty, he moved the trial court namely the Special Court for EC and NDPS Act cases, Pudukottai in CrI.MP No.46 of 2022 and that came to be dismissed on 22/01/2022.

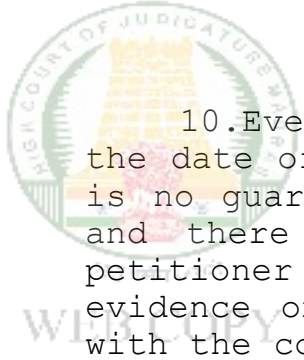
5.The learned counsel appearing for the petitioner would submit that absolutely, there is no material on record to implicate this petitioner in the offence and only on the basis of the confession statement of the co-accused, he has been arrested and remanded to judicial custody and he is not also involved in similar crimes. The learned counsel would further submit that section 37 of NPDS Act will come into play only when similar cases are pending against the petitioner.

6.But I am unable to agree with the line of the argument that has been advanced by the learned counsel appearing for the petitioner for the simple reason that there is no such qualification in the Act to the effect that only similar nature of offences.

7.So far as the second argument that has been advanced by the learned counsel appearing for the petitioner that only based upon the confession statement of the co-accused, the has been arrayed as an accused is not correct on record.

8.On going through the entire CD file, it is seen that this petitioner along with the other co-accused alleged to have illegally transported the contraband through the vehicle namely Hyundai Accent Car bearing registration No.TN-04-P-06118 and when that was intercepted on a tip by a team, totally 5 persons have been arrested on the spot itself. From them only, the above said contraband has been recovered. It is further seen that a big network is operating in purchasing and transporting and selling the countered.

9.Even though the petitioner is not involved in similar offence in the earlier occasion, the learned Government Advocate (Criminal side) would submit that totally the petitioner is having 9 cases. List shows that some of the offence are nuisance cases and some of the offences are assault cases and one robbery case is pending against the petitioner. Some of the cases have also been disposed of. It appears that the petitioner is not a man of good conduct, having criminal antecedents also.



10. Even though the petitioner is in custody, ever-since from the date of arrest, he has not satisfied the twin conditions. There is no guaranty that he will not commit the same offence in future and there is no material on record except to state that the petitioner is not guilty of the offence. Since there is prima facie evidence on record to show that he was arrested red handed along with the co-accused persons, found in possession of 23 kgs of ganja, this is not a fittest case to enlarge the petitioner on bail.

11. In the result, this criminal original petition is **dismissed**.

Sd/-

15/02/2022

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/ /2022

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

ER

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,
KENIKKARAI POLICE STATION,
RAMANATHAPURAM DISTRICT.
2. THE OFFICER INCHARGE,
DISTRICT PRISON,
RAMANATHAPURAM.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.2675 of 2022

Date :15/02/2022