



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

Reserved on : 18.03.2022

Delivered on : 28.03.2022

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PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.3931 of 2022

1. Murugan
2. Sowmiya

: Petitioners/Accused 3&4

vs.

The State rep.by its
The Inspector of Police,
Kannivadi Police Station,
Dindigul District.
(Crime No.30 of 2022)

: Respondent/ Complainant

For Petitioners : Mr.K.Anandan,
Advocate.

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

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

PRAYER :-

For Bail in Crime No.30 of 2022 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioners/Accused, who were arrested and remanded to judicial custody on 30.01.2022 for the offences punishable under Sections 8(c) r/w 20(b)(ii)(C) and 29(1) of Narcotic Drugs and Psychotropic Substances Act, 1985, in Crime No.30 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 30.01.2022 at about 06.15 hours, on receipt of secret information, the respondent Police party conducted raid near Kurumbapati Pirivu, Karamadai to Karisal Patti Road, that on seeing the Police party, the petitioners and other accused attempted to run away from that place, but the respondent Police nabbed the petitioners and found that they were in possession of 23.500 kgs of Ganja and that the petitioners were arrested and the contraband was recovered.



3.The petitioners' case is that there is no nexus between the petitioners and the alleged occurrence, that the respondent Police seized 23.500 kgs of Ganja from A1 and A2, that the second petitioner is the wife of the first accused and the first petitioner is the father-in-law of the first accused, that the petitioners are innocents and they have no connection with the alleged occurrence.

4.It is their further case that on 30.01.2022, when both the petitioners were at their home, the respondent Police have falsely implicated the petitioners, that the second petitioner is having two children including a mother feeding child and that the petitioners are not having any previous case.

5.The learned Additional Public Prosecutor appearing for the State would submit that A3 and A4 were also actively involved in the commission of offence, that they had closed contacts with the other accused and that the seized contraband is of commercial quantity.

6.It is the specific case of the prosecution that the petitioners and the other accused were found to be in possession of 23.500 kgs of Ganja and the same was recovered at the scene of occurrence. It is also the specific case of the prosecution that the petitioners were very much available at the scene of occurrence and that though all the accused had attempted to run away from the spot, the respondent Police nabbed the petitioners and other accused and recovered the said contraband from them.

7.No doubt, the learned Additional Public Prosecutor would fairly concede that the petitioners are not having any previous case under the NDPS Act.

8.It is settled law that the twin conditions contemplated under Section 37 of NDPS Act are to be considered as conjunctive and not alternative. In the case on hand, as already pointed out, since the petitioners are not having any previous case under the NDPS Act, this Court can very well record a finding that the petitioners are not likely to commit any such offence, after coming out on bail. But at the same time, as already pointed out, the contraband of commercial quantity was recovered from the petitioners and other accused and that the petitioners were also arrested at the scene of occurrence along with other accused, this Court cannot record a finding that the petitioners are not guilty of such offence as contemplated under Section 37 of NDPS Act.

9. Considering the above, this Court has no other option, but to reject the petitioner's bail plea.



10. In the result, this Criminal Original Petition is dismissed.

sd/-
28/03/2022

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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 INSPECTOR OF POLICE,
KANNIVADI POLICE STATION,
DINDIGUL.
2. THE OFFICER-INCHARGE,
SUB JAIL, VEDASANDUR.
3. THE OFFICER-INCHARGE,
SPECIAL PRISON FOR WOMEN, MADURAI.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.3931 of 2022
Date : 28/03/2022

das
USK/PN/SAR-II/29.03.2022/3P/5C