



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Dated: 28/03/2022
PRESENT

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The Hon'ble Mr.Justice G.ILANGO VAN
Cr1.OP(MD)Nos.5251 and 5260 of 2022

Harichandran @ Arichandran @ Pandi : Petitioner/A5
in CRL OP(MD) No.5251 of 2022

Balamurugan @ Pukari : Petitioner/A6
in CRL OP(MD) No.5260 of 2022

Vs.

The State rep. By
The Inspector of Police,
Thideer Nagar Police Station,
Madurai District.
(Crime No.222 of 2021)

: Respondent/Complainant
in both the petitions

For Petitioners : Mr.C.Karthikeya, Advocate

For Respondent : Mr.SS.Madhavan,
Government Advocate
(Criminal side)

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

PRAYER :-

For Bail in Crime No.222 of 2021 on the file of the Respondent Police.

COMMON ORDER : The Court made the following order :-

The petitioners/A5 & A6 were arrested on 26/06/2021 and remanded to judicial for the alleged offences punishable under sections 8(c), 20(b)(ii)(c) of NDPS Act, 1985 r/w 83((2) of Juvenile Justice Act, 2015, in Crime No.222 of 2021 on the file of the respondent police, seek bail respectively.

2.The petitioners are facing the charges for the offence sections 8(c), 20(b)(ii)(c) of NDPS Act, 1985 r/w 83((2) of Juvenile Justice Act, 2015.

3.Heard both sides.

4.The earlier bail applications filed by the petitioners were dismissed by this court on the ground that the petitioners have not satisfied the twin conditions set out in section 37 of the NDPS Act.

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



These petitions were filed on the ground that the co-accused were released on bail by the Juvenile Justice Board. As per rule of parity, they are entitled for bail.

5. But the rule of parity cannot be extended to the petitioners, since the co-accused was a juvenile, who was released on bail. So the petitioners cannot equate themselves with the juvenile. So this ground is not available to them.

6. The next ground urged by the learned counsel appearing for the petitioners is that no recovery has been made from the petitioners and recovery has been made only from the first accused. To show that they were not in possession of ganja during the arrest, they have also produced some photographs. But those things can be a matter for consideration during the course of trial.

7. Reading of the FIR and the entire CD file shows that on a tip off, the police team went to the place of occurrence and from the place of occurrence, totally 7 persons were found and the petitioners/A5 and A6 were found in the place of occurrence itself and A1 gave confession statement wherein he has stated that all the accused persons purchased 24 kgs of ganja from Cumbum area and they are making pockets for selling. So on that ground, all the accused persons were arrested on the spot itself and 24 kgs of ganja have been recovered.

8. So pointing out that contention, the learned counsel appearing for the petitioners would submit that no recovery has been made from these petitioners and except the confession statement of A1, no other materials are available. But these petitioners were also present in the place of occurrence preparing pockets for selling the contraband. When such being the position, the contention on the part of the petitioners that they were not in found in possession of ganja and no materials have been collected is not correct. The twin conditions must be satisfied. After recovery only the police arrested the petitioners.

9. Similarly the ground that the petitioners were arrested in their house and not from the place of occurrence is also a matter for consideration during the course of trial. So, considering the gravity of the offence, the petitioners are not entitled to the relief of bail.

10. In the result, these petitions are **dismissed**.

sd/-

28/03/2022

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/ /2022

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



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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
THIDEER NAGAR POLICE STATION, MADURAI DISTRICT.
- 2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP (MD) No.5251
and 5260 of 2022
Date :28/03/2022

SS/SVR/SAR:I/05.04.2022 : 3P/4C