



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 20/04/2022

WEB COPY

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.6526 of 2022

1. Murugan
2. Sowmiya

... Petitioners/Accused 3 & 4

Vs

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

... Respondent/Complainant

For Petitioners : M/s.Anandan.K., Advocate.

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

PETITION FOR BAIL Under Sec.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 contraband was recovered from the first accused only, as evident from the seizure mahazar; 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.As rightly pointed out by the learned counsel for the petitioners, the contraband of 21.900 kgs of Ganja was recovered from the first accused Diwakar as evident from the seizure mahazar.

5.But the learned Additional Public Prosecutor appearing for the State would submit that the petitioners are very much available at the occurrence place and they were arrested along with the first accused and that the contraband was recovered at the place of occurrence.

6.As rightly pointed out by the learned Additional Public Prosecutor, this Court in earlier application in CrI.O.P.(MD)No.3931 of 2022 filed by the petitioners, has dealt with the above aspects and came to the decision that the second condition under Section 37 NDPS Act was satisfied, but they have failed to satisfy the first condition.

7.As already pointed out in the earlier order, it is settled law that the twin conditions contemplated under Section 37 of NDPS Act are to be considered as conjunctive and not alternative. Though 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 at the place of occurrence and that the petitioners were arrested along with the first accused, this Court cannot record a finding that the petitioners are not guilty of such offence as contemplated under Section 37 of NDPS Act.

8.Considering the seriousness and gravity of the offence alleged and also the fact that the investigation is pending, as stated by the learned Additional Public Prosecutor and that there is no change in circumstances, since the dismissal of the earlier petition, this Court is not inclined to grant anticipatory bail to the petitioners.

9.Accordingly, this Criminal Original Petition is dismissed.

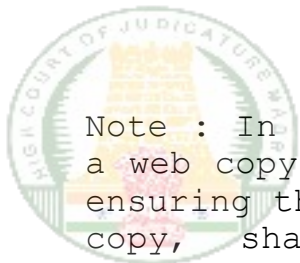
Sd/-

20/04/2022

/ TRUE COPY /

/ /2022

Sub-Assistant Registrar (C.S.I)
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.

WEB COPY

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.6526 of 2022

Date :20/04/2022

SP/SVR/SAR I/26/04/2022/3P/5C