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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Dated: 30/06/2022

PRESENT

The Hon'ble Mr. Justice G.ILANGO VAN

Cr1.OP (MD) No.7141 of 2022

Marshall Tarence Raja

... Petitioner/Sole Accused

Vs.

State rep.by
The Sub Inspector of Police,
NIB-CID, Nagapattinam,
(Crime No.03 of 2022)
(Velipalayam P.S
Crime NO.983 of 2021)

... Respondent/Complainant

For Petitioner : Mr.A.Senthil Kumar, Advocate

For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime No.3 of 2022 on the file of the Respondent Police (Velapalayam P.S Crime No.983 of 2021).

ORDER : The Court made the following order:-

The petitioner, who is arrayed as sole accused was arrested, on 03/11/2021 and remanded to judicial custody for the alleged offences punishable under sections 8(c) r/w 20(b)(ii)(C) and 25 of NDPS Act, 1985, in Crime No.03 of 2022 on the file of the respondent police (Velapalayam P.S Crime No.983 of 2021), seeks bail.

2.The case of the prosecution is that on a secret information, the police team went to the place of occurrence namely near the compound wall of the Government Medical College Hospital, Nagapattinam and in front of AWPS, Nagapattinam and found that a private Ambulance bearing registration No.TN-59-4852 was parked. The petitioner was found standing near the Ambulance. On seeing the police team, he tried to escape from that place. He was apprehended and on enquiry and search, it was found that 5 bags of Ganja, each



weighing 40 kgs were found and further processes were undertaken as per the procedure. On that basis, the case was registered and the petitioner was arrested and remanded to custody and ever-since, he is in custody.

3. Heard both sides.

4. The learned counsel appearing for the petitioner would submit that the case of the prosecution is highly unbelievable one. If really the intention of the petitioner is to transport the Ganja in the Ambulance, he would not have parked the same in front of All Women Police Station. According to the petitioner, the story of the prosecution is highly unbelievable one and no bad antecedent is reported against him and on that ground, he seeks bail.

5. But from perusal of the entire CD file and the counter affidavit, that was filed by the respondent, it is seen that the petitioner was apprehended in the place of occurrence along with Ganja. It is further seen that the private Ambulance has been used for the purpose of transporting the Ganja from Andhra Pradesh etc. When huge quantity of contraband has been seized and recovered at the instance of the petitioner, naturally he has to comply the condition set out in section 37 of NDPS Act. Except stating that this petitioner is not having any previous case and the story projected by the prosecution is beyond belief, no other material or substance has been brought on record. The manner in which, the offence said to have been committed itself is sufficient enough for denying the bail to the petitioner and if bail is granted, there is no guarantee that he will not commit any similar nature of the offence. In this case, final report has been filed and taken cognizance in CC No.48 of 2022 by the trial court.

6. The learned counsel appearing for the petitioner would rely upon the decision of the Hon'ble Supreme Court reported in the case of Union of India Vs. K.A.Najeeb (Criminal Appeal No.98 of 2021) and would contend that the Hon'ble Supreme Court has set out the general principle that brought to be followed while granting bail. He would further rely upon the para 13 of the judgment, wherein the Hon'ble Supreme Court, while comparing the provision of Terrorist and Disruptive Activities (Prevention) Act, 1989 and the Narcotic Drugs and Psychotropic Substances Act, 1985 has observed that for protecting the interest of the innocent people, speedy trial has been contemplated. Time and again, it has been stressed by various courts that speedy trial is a part of the fundamental right and there can be no second opinion on the principle of law.

7. But here, as mentioned earlier, since the petitioner was found in possession of the contraband, which is a commercial quantity, section 37 NDPS Act has to be strictly complied. So, this court cannot exercise its jurisdiction. If at all only a direction can be issued to the trial court to expedite the trial process.



8. In the result, this criminal original petition is **dismissed**. But however, considering the duration of the custody of the petitioner and final report has been filed, there shall be a direction to the trial court to expedite the trial process and complete the same, within a period of six months from the date of receipt of a copy of this order.

Sd/-
30/06/2022

/ TRUE COPY /

/07/2022
Sub-Assistant Registrar (C.S.II)
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 SUB INSPECTOR OF POLICE,
NIB-CID, NAGAPATTINAM.
2. THE INSPECTOR OF POLICE,
VELIPALAYAM POLICE STATION,
NAGAPATTINAM DISTRICT.
3. THE SUPERINTENDENT,
CENTRAL PRISON, TIRUCHIRAPPALLI.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.7141 of 2022
Date : 30/06/2022