



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

Date : 26/05/2022

PRESENT

The Hon`ble Mr.Justice P.VELMURUGAN

CRL OP(MD) . No.9631 of 2022

Selvam

... Petitioner/Accused-1

Vs

State through
The Inspector of Police,
Silaiman Police Station,
Madurai District.
Crime No.539 of 2021.

... Respondent/Complainant

For Petitioner : M/s.Moorthy S,
Advocate.

For Respondent : Mr.RMS.Sethuraman,
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime No.539 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A.1, who was arrested and remanded to judicial custody on 24.12.2021 for the alleged offences under Sections 8(c) r/w 20(b)(ii)(C) of NDPS Act, in Crime No.539 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 24.12.2021 at about 06.00 a.m., the respondent police, on receiving a secret information, went to near Viraganur Bus Stop, Viraganur to Theppakulam Road and they had intercepted the petitioner and other accused and seized 21 kgs. of ganja from them. After completing all the formalities contemplated under NDPS Act, the petitioner and other accused were arrested and remanded to judicial custody.

3. The petitioner has already filed a bail application before the learned Special Judge, Principal Special Court for Trial of Narcotic Drugs and Psychotropic Substance Act cases, Madurai, in Crl.M.P.No.685 of 2022 and the same was dismissed by the learned



Judge on 10.05.2022. Therefore, the petitioner has approached this Court by way of this Criminal Original Petition.

4. The learned counsel for the petitioner would submit that the petitioner never committed any offence as alleged by the prosecution and on the date of occurrence, he was not at all present in the place of occurrence. Even the CCTV footage clearly shows that the petitioner was not in the place of occurrence. Therefore, the respondent police wrongly arrested the petitioner and put up the case as against him. He would further submit that there is only one previous case against the petitioner and the same was ended in acquittal.

5. The learned Additional Public Prosecutor appearing for the State would submit that the petitioner is the first accused and the respondent police recovered 21 kgs. of ganja from the accused and the investigation is in preliminary stage. He would further submit that the petitioner is having 3 previous cases, in which, one was ended in acquittal and the other two cases were pending and all the accused were arrested and they are in judicial custody.

6. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the State and perused the records carefully.

7. Since the quantum of contraband is 21 kgs, which is a commercial quantity and the petitioner is a habitual offender, if he is released on bail, there is a possibility to commit the same type of offence, which also spoil the youngsters nowadays. The investigation has been completed and the charge sheet has also been filed and the sample report received from the lab, which also confirmed that the alleged contraband is a ganja.

8. Considering the serious nature of the offence, this Court is not inclined to grant bail to the petitioner. Hence, the petition stands dismissed. However, since the investigation has already been completed and the charge sheet has been filed, the Special Court for NDPS Act Cases is directed to take the charge sheet on file, if it is otherwise in order, within a short period and complete the trial within a period of three months from the date of taken the charge sheet on file.

9. Further, it is noted that Non-Bailable Warrant is pending against the petitioner in C.C.No.150 of 2014 in Crime No.33 of 2014. It is shock and surprise that the petitioner has been arrested in this case on 24.12.2021 itself and he is in judicial custody for more than 5 months. This is a good example for the Police Department is acting without any application of mind and also one way or other way they are helping the accused to get free and doing these type of activities. Therefore, the attitude of the respondent police is



10. The Inspector General of Police is directed to look into the matter and also take action against the concerned officer, who cause for keeping the Non-Bailable Warrant pending for more than four years and particularly when the same accused was arrested five months before in another case.

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26/05/2022

/ TRUE COPY /

/ /2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE INSPECTOR OF POLICE,
SILAIMAN POLICE STATION,
MADURAI DISTRICT.
2. THE OFFICER-INCHARGE,
DISTRICT PRISON, THENI.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO :

THE INSPECTOR GENERAL OF POLICE,
MADURAI.

ORDER
IN
CRL OP(MD) No.9631 of 2022
Date :26/05/2022

CSM/AKV
USK/VR/SAR-IV/26.05.2022/3P/5C