



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Dated: 30/08/2022

PRESENT

The Hon'ble Mr.Justice G.ILANGO VAN
Crl.OP (MD)No.10905 of 2022

WEB COPY

Mohamed Froskhan

... Petitioners/Accused No-5

Vs.

State represented by
The Inspector of Police,
Thiruvattar P.S
Kanyakumari.
(Crime No.365 of 2021)

... Respondent/Complainant

For Petitioner : Mr.Na.Manimaran, Advocate
For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor

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

PRAYER :-

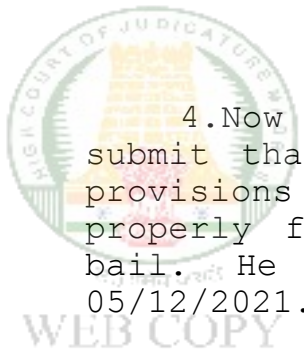
For Bail in Crime No.365 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who is arrayed as A5 was arrested, on 05/12/2021 and remanded to judicial custody for the alleged offence punishable under section 8(c) r/w 20(b),(ii)(C) of NDPS Act, in Crime No.365 of 2021, seeks bail.

2.The case of the prosecution is that the de-facto complainant on a secrete information furnished by the police informer, went to the place of occurrence along with a police team and the police informer identified the accused persons namely Lalithabai. She was apprehended and enquired. During the course of enquiry and search, she was found in possession of 32 kgs of ganja. As per the procedure and law, sampling was undertaken and she was arrested and remanded to judicial custody. During the course of investigation, the involvement of the petitioner also came to light. On the basis of the above said information that was furnished by the co-accused, this petitioner was also implicated.

3.The bail application filed before the trial court came to be dismissed, by order dated 05/03/2022 in Crl.MP No.38 of 2022 stating that section 37 of the NDPS Act has not be complied.



4.Now the learned counsel appearing for the petitioner would submit that at the time of the above said search, the mandatory provisions under sections 42,50, 52A and 57 of NDPS Act has not been properly followed. On that ground, the petition is entitled for bail. He was arrested and remanded to judicial custody on 05/12/2021.

5.Per contra, the learned Additional Public Prosecutor would submit that the first accused namely Lilithabai is the mother of A2 to A4. The entire family is involved in the above said illegal selling of the contraband. As per the case of the prosecution, even though 1.50 kgs of ganja was seized from A1, on the basis of the confession of A1, 35.50 kgs of ganja was seized and recovered from the house of the petitioner.

6.When huge quantity of the above said contraband has been seized from the house of the petitioner, he has to satisfy the requirement of law under section 37 of the NDPS Act. Except stating that it is a foisted case and no proper procedure has been followed and the confession statement alleged to have been given by the co-accused is not of any value, cannot be accepted for the simple reason that the petitioner has to explain as to how the above said contraband was found in his possession.

7.When seizure has been made from the house of the petitioner, then automatically he has to explain his possession and satisfy the requirement under section 37 of the NDPS Act. Absolutely, no explanation has been offered. So I find no merit in this petition.

8.In the result, this criminal original petition is **dismissed**.

sd/-

30/08/2022

/ TRUE COPY /

/09/2022

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, THIRUVATTAR POLICE STATION,
KANYAKUMARI.



Crl.OP(MD)N



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2 THE OFFICER INCHARGE, DISTRICT PRISON, PERAAYOORANI.

3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

WEB COPY

ORDER

IN

CRL OP (MD) No.10905 of 2022

Date :30/08/2022

ER

RS/VR/SAR.4 (09.09.2022) 3P-4C