



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

Dated: 29/08/2022

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PRESENT

The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.OP(MD)Nos.13415, 13429 and 13919 of 2022

Marikumar	: Petitioner/Accused No.1 in Crl.OP(MD)No.13415 of 2022
S.Ganesan	: Petitioner/ Accused No.3 in Crl.OP(MD)No.13429 of 2022
Anthony Jeyaraj	: Petitioner / Accused No.8 in Crl.OP(MD)No.13919 of 2022

Vs.

The State rep. By
The Inspector of Police,
NIB-CID Police Station,
Thoothukudi District.
(Crime No.8 of 2022)

: Respondent/Complainant
IN ALL THE PETITIONS

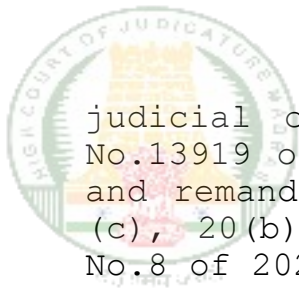
For Petitioner	: Mr.A.Santhana Sinakarthan, Advocate in Crl.OP(MD)No.13415 & 13429/2022
Petitioner	: Mr.N.Pragalathan, Advocate. in Crl.OP(MD)No.13919 of 2022
For Respondent	: Mr.T.Senthil Kumar Additional Public Prosecutor (All cases)

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

COMMON PRAYER :-For Bail in Crime No.8 of 2022 on the file of the Respondent Police.

COMMON ORDER:- The Court made the following order:-

The petitioners in Crl.OP(MD)Nos.13415 and 13429 of 2022, who are arrested as A1, A3 were arrested, on 06/03/2022 and remanded to



judicial custody, on 07/03/2022 and the petitioner in C. No.13919 of 2022, who is arrayed as A8 was arrested, on 20/05/2022 and remanded to judicial custody for the offences under sections 8 (c), 20(b)(II)(C), 23(c), 24, 29(1) and 25 of NDPS Act, in crime No.8 of 2022 on the file of the respondent police, seek bail.

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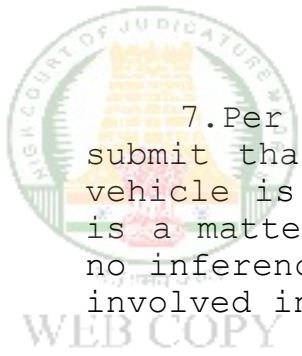
2.The case of the prosecution is that the de-facto complainant on a secrete information along with police team members went to the place of occurrence, on 06/03/2022 at about 3.15 pm. When they were on checking up near Vellapatti seashore area, on suspicion, they searched 3 two wheelers and 1 four wheeler bearing Registration Nos.TN-65-W-5866, TN-69-AE-9414, TN-69-L-7529 and TN-69-P-7859 and they found seven persons in the place. On seeing the police party, they try to escape. They were apprehended. On enquiry, they revealed their name as Marikumar, Mansoor Ali, Ganeshan, Panner Selvam, Yogeshwaran, Essakimuthu and Vinith. One person escaped by name Anthony Jeyaraj. On search, they were found in possession of the contraband weighing about 471.600 kgs. So on the basis of the confession statement given A1, the involvement of the other accused persons came to light. As per the procedure, sampling and other formalities were undertaken and based upon the complaint, the case was registered.

3.Now seeking regular bail, these petitions have been filed by petitioners, who are arrayed as A1, A3 and A8.

4.Heard both sides.

5.It is the contention on the part of the accused persons to the effect that no proper procedure has been followed and the contraband alleged to have been recovered only from the vehicle, that was standing in the place of occurrence and the specific overtact has not been made, either in the FIR or during the course of investigation against each of the accused persons and only section 43 of the NDPS Act, any circumstance ought to have been adopted and proper procedure has not been followed and section 48 of NDPS Act has been violated and the wife of the one of the accused namely Rajalakshmi made a complaint making allegation against 'Q' Branch police over the illegal arrested and detention of the above said Ganesan and other accused persons.

6.According to the learned counsel appearing for the petitioners, how the first accused has been fixed has not been properly stated in the FIR. Even as per the reading of the FIR, only on the basis of the confession statement of A1, the above said contraband has been recovered. Since the petitioners were not found in possession of the contraband, their involvement cannot be presumed. So according to the petitioners, even though, the alleged vehicle was found in possession of the contraband, that cannot be related to the petitioners and they have been falsely implicated.



7.Per contra, the learned Additional Public Prosecutor would submit that only joint possession can be presumed and the alleged vehicle is owned by A6 and the violation of the statutory provision is a matter for only trial. On the ground of statutory violations, no inference can be drawn to the effect that the petitioners are not involved in the above said possession of contraband.

8.It is further submitted that the call details of A8 have been collected showing that he was constant contact with A1. So on that ground, it has been submitted that since it involves commercial quantity and that too the case was registered on the basis of the secrete information made by the 'Q' Branch, the petitioners are not entitled to bail and as rightly pointed out by the trial court, no case has been made out by the petitioners to enlarge them on bail.

9.Reading of the entire CD file shows that a team of persons were operating in that area involving smuggling of the contraband to Srilanka and huge quantity of the contraband has been recovered from the vehicle, which was allegedly shown by A1 and other accused persons were also found in that place.

10.Whether the petitioners are not concerned with the above said contraband is a matter for investigation and trial. Since huge quantity of the contraband has been recovered at the instance of the accused persons, only joint possession can be presumed. All the statutory violations and that of the other lapses, that have been pointed out by the learned counsel appearing for the petitioner is a matter for investigation and trial. From those aspects, that cannot be presumed that the petitioners are not involved in the above said offence. Such a serious nature of involving huge quantity of the contraband requires thorough investigation. If the petitioners are released on bail, there is every possibility of hampering the investigation process.

11.In the result, all criminal original petitions are **dismissed**.

sd/-
29/08/2022

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/09/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1 THE INSPECTOR OF POLICE
NIB-CID POLICE STATION, THOOTHUKUDI DISTRICT

2 THE OFFICER INCHARGE,
DISTRICT PRISON, PERURANI, THOOTHUKUDI.

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

ORDER

IN

CrI.OP (MD) Nos.13415, 13429
and 13919 of 2022

Date :29/08/2022

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MK/VRS/SAR.II/15.09.2022/4P/4C