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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 19/10/2022

PRESENT

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

Cr1.OP(MD)Nos.15229 and 16411 of 2022

(1).Cr1OP(MD)No.15229 of 2022:-

E.Balamurugan : Petitioner/A2

Vs.

The State
rep. By the Inspector of Police,
Theni NIB-CID Police Station,
Theni District.
(Crime No.19/2022)

: Respondent/Complainant

For Petitioner : Mr.R.L.Dhilipan Pandian

For Respondent : Mr.T.Senthilkumar
Additional Public Prosecutor

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

PRAYER :-C32B.For Bail in Crime No.19 of 2022 on the file
of the Respondent police.



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(2).Cr1OP(MD)No.16411 of 2022:-

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Karuppiah

: Petitioner/A3

Vs.

The State
rep. By the Inspector of Police,
Theni NIB-CID Police Station,
Theni District.
(Crime No.19/2022)

: Respondent/Complainant

For Petitioner : Mr.K.Prabhu

For Respondent : Mr.T.Senthilkumar
Additional Public Prosecutor

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

PRAYER :-C32B.For Bail in Crime No.19 of 2022 on the file
of the Respondent police.

COMMON ORDER : The Court made the following order:-

The petitioners, who are arrayed as A2 and A3 were
arrested, on 10/05/2022 and remanded to judicial custody
for the alleged offences punishable under sections 8(c),
20(b), (ii) (C), 25, 29(1) of NDPS Act, in Crime No.19 of
2022 on the file of the respondent police, seek bail.



2.The case of the prosecution is that on secret information, the police team on 09/05/2022 at about 11.00 pm, went to the place of occurrence along with the police informer. On 10/05/2022 on the early morning at about 00.20 am, suspect was identified by the informer. The suspect was found in possession of a white bag. Search was made and it was found that he was in possession of 14 kgs of ganja. He was apprehended and further process was also undertaken as per Rules.

3.On the information furnished by the accused namely Vijayan, Police team went to the Bodi bus-stand. Two persons were identified by A1. They were apprehended and on enquiry, they revealed their names as Balamurugan and Karuppiyah, who are the petitioners herein. The first petitioner Balamurugan was the driver of the aforesaid Omni Van bearing registration No.KL-03-B-5171. On search, they were found in possession of 12 kgs of ganja and further process was also undertaken. Both the two accused have been arrested on the spot and remanded to judicial custody.

4.Heard both sides.



5.Crl.OP (MD)No.10772 of 2022 was filed by both the petitioners jointly and that came to be dismissed, on 19/07/2022 on the ground that section 37 of the NDPS Act has not been complied and possession of one person cannot be segregated from the possession of other person, since according to the prosecution, it is the habit of the accused persons to purchase the contraband in bulk from Andhra Pradesh and transporting the same to Tamil Nadu, storing in the house of A2 and selling in retail.

6.Even though, the learned counsel appearing for the petitioners relied upon the decision of this court in the case of **Mohammed Jalil Khan and another Vs. The Inspector of Police, NIB CID, Chennan (Crl.OP (MD)No.9444 of 2022, dated 28/04/2022**, which was distinguished by this court in the light of the case of the prosecution that it was purchased in bulk; when three persons are engaged in joint trading, possession of one person cannot alone be separated.

7.But here, as mentioned earlier, the facts are entirely different. So the petitioners cannot take advantage of the order, that has been passed by the



coordinate Bench of this court, when that has been elaborately discussed and distinguished. The very same ground has been raised again by raising separate petition, which is not permissible under law. I find that no ground has been made by the petitioners to revive the above said order.

8.No doubt that from the date of the arrest, the petitioners are in prison and several cases are also pending against them. But considering the fact that they are ganja traders, in my considered opinion, this is not the fittest case to enlarge the petitioners on bail. There is no guarantee that if the petitioners are released on bail, they will not commit the similar crime during the bail period.

9.In the result, these criminal original petitions are **dismissed**.

Index:Yes/No
Internet:Yes/No
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19/10/2022

To,



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1. The Inspector of Police,
Theni NIB-CID Police station,
Theni District.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

G . ILANGO VAN , J

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19/10/2022



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