



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

Dated: 17/11/2022

PRESENT

The Hon'ble Mr.Justice G.ILANGO VAN

Crl.OP(MD)No.18980 of 2022

WEB COPY

R.Bhuvaneswaran

... Petitioner/Accused No.2

Vs.

State Rep.by
The Inspector of Police,
NIB-CID,
Trichy District.
(Crime No.3 of 2022)

... Respondent/Complainant

For Petitioner : Mr.NA.Manimaran, Advocate

For Respondent : Mr.S.Ravi, 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.

ORDER : The Court made the following order:-

The petitioner, who is arrayed as A2 was arrested on 24/03/2022 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, in Crime No.3 of 2022, seek bail.

2.The case of the prosecution is that on 23/03/2022 at about 1.45 pm, the respondent on a secret information that Ganja is transported illegally along with his team, he went to the place of occurrence, at about 2.30 pm and were watching. At that time, they intercepted a car bearing registration No.TN-74-AM-5159. The occupants were one Aasai and Buvaneshesari. On search, 22 kgs of Ganja was found. Based upon the above said incident, further process was undertaken and the case was registered.

3.Seeking bail, the petitioner, who is arrayed as A2 filed this second petition.

4.Heard both sides.

5.The earlier bail application was dismissed by this Court in Crl.OP(MD)No.8641 of 2022, dated 01/07/2022. That application was filed by the petitioner along with one Aasai, who is arrayed as A1. That came to be dismissed by this court, after elaborate consideration. In respect of this petitioner, the observation in the

<https://www.mca.gov.in/judis> order runs like this:-



"7. In respect of the second petitioner/A2, he was arrested on the spot along with A1. In respect of the 2nd petitioner also, a case in Crime No.15 of 2022 is pending on the file of NIB-CID, Salem, which is also commercial quantity.

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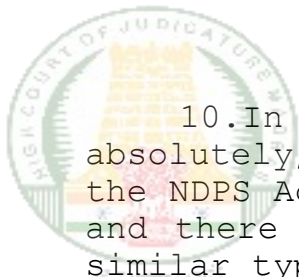
8. It is contended on the part of the learned Additional Public Prosecutor that the second petitioner also involved in the above said big network, who used to purchase Ganja from Andhra Pradesh, transporting the same to the Tamil Nadu and distributing throughout the State. So, the learned Additional Public Prosecutor would submit like that of the first petitioner/A1, the second petitioner/A2 is also a habitual offender. So if the petitioners are granted bail, both of them will abscond and tamper the trial process. Like that of the first petitioner, it is seen that the second petitioner/A2 has also not complied the conditions contemplated under section 37 of NDPS Act. Except stating that ever-since from the date of arrest, he is also in custody, no other valid ground to satisfy the requirement of section 37 of the NDPS Act is available to him. So the second petitioner is also equally not entitled to bail."

6. Now the learned counsel appearing for the petitioner raised the very same technical issue. He would submit that the contraband that has been recovered was not produced before the concerned court in time and there is a delay; Even the documents such as mahazar and arrest intimation, which alleged to have prepared in the place of occurrence itself, it bear the crime number. According to him, this creates doubt about in the prosecution case. But this cannot be taken into account at this stage. It is a matter for consideration before the trial court.

7. Now the trial court is going to be commenced and the final report has also been filed.

8. It is the contention of the petitioner that on the same day itself, two cases have been registered, one in Salem and another case in Madurai. But reading of the FIR shows that the case in Crime No.15 of 2022 on the file of the NIBCID, Salem, was registered on the ground that 200 kgs of ganja was found in possession. Only upon the confession of the co-accused, according to the petitioner, he has been arrayed as an accused.

9. On the previous occasion also, I have perused the entire CD file, and it is stated that the petitioner along with the other accused person continuously engaged in purchasing Ganja from the outside State, transported the same to Tamil Nadu and selling the same.



10. In the above said facts and circumstances of the case, absolutely, I find no merit in this petition, since section 37 of the NDPS Act has not been satisfactorily complied by the petitioner, and there is no guarantee that the petitioner will not commit the similar type of offence in future, if released on bail.

11. In the result, this criminal original petition deserves dismissal and accordingly, it is **dismissed**.

sd/-

17/11/2022

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/11/2022

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

TO

- 1 THE INSPECTOR OF POLICE NIB CID, TRICHY DISTRICT.
- 2 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.18980 of 2022

Date :17/11/2022

er

RS/VR/SAR.3(23.11.2022) 3P-4C