



1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 23/11/2022

CORAM

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

Cr1.RC(MD)No.1064 of 2022

Murugan : Petitioner/Sole Accused

Vs.

The Inspector of Police,
Alanganallur Police Station,
Madurai District.

(In Crime No.279 of 2022) : Respondent/Complainant

PRAYER:- This Revision has been filed under section 397 r/w 401 of the Criminal Procedure Code to call for the records relating to the order dated 14/10/2022 passed in Cr.M.P No.5236 of 2022 on the file of the Judicial Magistrate, Vadipatti and set aside the same and release the petition on bail by allowing the revision.

For Petitioner : Mr.J.Selvam

For Respondent : Mr.S.Manikandan
Government Advocate
(Criminal side)



WEB COPY

ORDER

This revision has been filed against the order, dated 14/10/2022 passed in Cr.M.P No.5236 of 2022 on the file of the Judicial Magistrate, Vadipatti.

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 person. He was apprehended and enquired. During the course of enquiry and search, he was found in possession of 250 grams of ganja. As per the procedure and law, sampling was undertaken and she was arrested and remanded to judicial custody.

3.Seeking bail, the petitioner moved an application seeking bail before the Judicial Magistrate, Vadipatti, in Cr.M.P No.5236 of 2022. That came to be dismissed on 14/10/2022 as not maintainable. Against which, the present revision has been preferred.

4.Heard both sides.



5.A technical issue has been raised by the revision petitioner. According to him, section 77 of the Juvenile Justice (Care and Protection) Act to be considered as petty offence, even as per the definition in the Juvenile Justice (Care and Protection) Act; So this Act will override the General Act namely Criminal Procedure Code. By adding section 77 of the Juvenile Justice (Care and Protection) Act, it should not be converted as non-bailable offence and a cognizable offence. But I am unable to agree with this line of argument. Section 77 of the Juvenile Justice (Care and Protection) Act is not bailable and cognizable offence. So the contention that it must be construed as a petty offence and as per the schedule II of the Criminal Procedure Code, it must be taken only as bailable offence is not at all acceptable. Such sort of contention cannot be accepted at all. The Juvenile Justice (Care and Protection) Act classifies the offences to deal with the child in conflict. That cannot be made applicable to the adults. The contention that no difference has been made between adult and child in conflict with law in Juvenile Justice (Care and Protection) Act is not acceptable at all. The preamble portion and definition of the Act will



answer the issue that has been raised by the revision petitioner. So the petition that was filed by the revision petitioner under section 436 of the Criminal Procedure Code before the trial court is not at all maintainable and the order passed by the trial court does not suffer from any irregularity.

6. But it appears that the trial court has been carried away by the contention that has been raised by the revision petitioner. It ought to have been converted the same under section 437 Cr.P.C and thereafter pass orders, after hearing the learned Government Advocate (Criminal side). But that was not done probably due to insisting by the revision petitioner to exercise the power under section 436 Cr.P.C only. So the criminal revision is liable to be dismissed and accordingly, it is dismissed giving liberty to the revision petitioner to workout his remedy through appropriate proceedings before the concerned court in the manner known to law.



WEB COPY

7. In the result, this criminal revision is **dismissed**. But however, liberty is granted to the revision petitioner to move appropriate petition before the concerned Court in the manner known to law.

23/11/2022

Index:Yes/No

Internet:Yes/No

er

To,

1. The Judicial Magistrate,
Vadipatti,
Madurai District.
2. The Inspector of Police,
Alanganallur Police Station,
Madurai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



6

G.ILANGO VAN, J

er

Cr1.RC (MD) No.1064 of 2022

23/11/2022