



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 23/12/2022

WEB COPY

PRESENT

The Hon'ble Mr.Justice G.ILANGO VAN

Crl.OP(MD)No.22725 of 2022

Karuppiah

... Petitioner/Accused No.3

Vs.

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

... Respondent/Complainant

For Petitioner : Mr.K.Jeyamohan, Advocate
For Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor

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

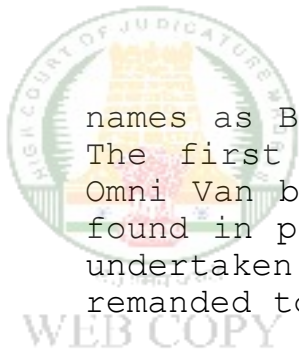
PRAYER :- For Bail in Crime No.19 of 2022 on the file of the Respondent police.

ORDER : The Court made the following order:-

The petitioner, who is arrayed as A3 was 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 Karupppiah, who are the petitioners. 1. 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 the petitioner along with the co-accused 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.Now the learned counsel appearing for the petitioner would rely upon the very same judgment with the regard to the separate possession, in the light of the recent order that has been passed by the coordinate Bench of this Court in Crl.OP(MD)No.21309 of 2022, dated 14/12/2022. But I am afraid that such sort of contention can be raised and accepted. As mentioned in the above said observation, it is the allegation that he has purchased ganja from Andhara Pradesh and transported the same to Tamil Nadu and selling the same. So that was taken into account in the earlier occasion and find no change of circumstances. Whether the conscious possession can be attributed to the petitioner is the only point which got to be decided at the time of trial.

7.Now the learned Additional Public Prosecutor would submit that now final report has been filed and taken cognizance in Special CC No.1126 of 2022 and today the case is posted for engaging a counsel on behalf of the accused.

8.In the light of the above said development, this criminal original petition is **dismissed**, of course with liberty to approach the trial court seeking regular bail, by furnishing the bail application details that were filed and the results.

sd/-

23/12/2022

/ TRUE COPY /

/01/2023

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



To

1 THE INSPECTOR OF POLICE, THENI NIB - CID POLICE STATION,
THENI DISTRICT.

2 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

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

ORDER

IN

CRL OP (MD) No.22725 of 2022

Date :23/12/2022

RS/SSS/SAR.1(06.01.2023) 3P-4C