



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

Monday, the Sixth day of February Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD) . No.629 of 2023

Alexpandiyan

... Petitioner/Accused-4

Vs

The State rep. by,
The Inspector of Police,
Nagapattinam Town Police Station,
Nagapattinam District.
Crime No. 36 of 2022.

... Respondent/Complainant

For Petitioner : M/s.Senthilkumar A,

For Respondent : Mr.T.Senthilkumar,
Government Advocate (Crl.Side)

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

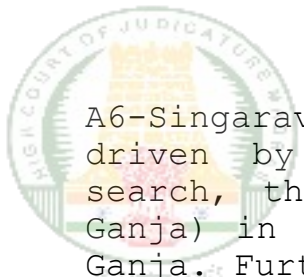
PRAYER :-

To enlarge the Petitioner on bail in Connection with the Cr.No.36 of 2022 on the file of the (Nagapattinam Town Police Station) Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A4, who was arrested and remanded to judicial custody on 01.02.2022 for the offences punishable under Sections 8 (c), 20(b)(ii)(c), 25 and 29(1) of NDPS Act, 1985 in Crime No.36 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 01.02.2022 at about 06.30hrs, based on the secret information, the respondent police was conducting vehicle checkup near Putthur Anna Statue in Nagapattinam Town, three vehicles, namely, a car bearing Reg.No.PY-01-CR-8157, one Ashok Leyland Van bearing Reg.No.TN-03-AB-8974 and another car bearing Reg.No.TN-12-J-1701 were coming towards east from the Putthur Roundana and the respondent police intercepted the above three vehicles and on enquiry, they came to know that the first vehicle bearing Reg.No.PY-01-CR-8157 was driven by A1-Chandrasekaran along with A3-Manivasagam, the second vehicle Ashok Leyland Van bearing Reg.No.TN-03-AB-8974 was driven by A5-Umapathi along with



A6-Singaravelu and the third vehicle bearing Reg.No.TN-12-J. as driven by A2-Srirengashwaran along with the petitioner/A4. On search, the respondent police found 9 gunny bags (each 50kgs of Ganja) in the said Ashok Leyland vehicle, which contains 450kgs of Ganja. Further, the investigation reveals that two cars involved in the said crime were used as escort for the contraband loaded vehicle. Further, on enquiry, the information furnished by the first accused, the respondent police came to know that the accused were tried to smuggle the contraband to Srilanka through A6's fiber boat. After completing the procedures complied under the NDPS Act, the respondent police arrested all the accused 1 to 6 and seized the three vehicles and a fiber boat. Hence, the case.

3. Notice was issued to the learned Additional Public Prosecutor and counter was filed by the prosecution.

4. The learned counsel for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. He would further submit that the recovery was made only from the vehicle, which was driven by A1 and there is no recovery made from the petitioner or from the vehicle, when which the petitioner was travelling. He would further submit that there is no previous case pending against the petitioner and he would seek for bail.

5. The learned Additional Public Prosecutor would submit that there are totally six accused in this case and the petitioner is arrayed as A4. He would further submit that the petitioner along with the other accused were travelling in three cars and they were well aware that the contraband of 450kgs was transported in a Ashok Leyland load van Dust bearing Registration No.TN-03-AB-8974. He would further submit that all these vehicles were travelling together and there are enough material to show that all the accused were having knowledge about the conscious possession of 450kgs of Ganja in the vehicle. He would further submit that the petitioner had earlier filed an application in Crl.O.P.(MD)No.15942 of 2022 and this Court, taking into consideration that the quantity of Ganja involved in this case is 450kgs, which is huge quantity, had dismissed the application on 21.11.2022. He would further submit that the petitioner has not satisfied the conditions as required under Section 37 of the NDPS Act for grant of bail.

6. Heard. Perused the materials available on record.

7. The petitioner is arrayed as A4. The contraband involved in this case is 450kgs, which is commercial quantity. Hence the petitioner has to satisfy three conditions under section 37 of NDPS Act:

a) opportunity to the Public Prosecutor to oppose the bail;

b) *prima facie* satisfaction regarding availability of ground for bail; and
<https://www.hc.madras.gov.in/crl>



c) he is not likely to commit any offence while on bail.

8. All submission of the petitioner with regard to the falsity of the case and against the possession of illicit articles and culpable mental state are ground for defence which can be kept open for consideration at the time of the trial.

9. On the broad probabilities of this case this Court at this juncture is unable to record its satisfaction on the existence of any substantial and probable cause for believing that the accused is not guilty of the offences charged.

10. This Court cannot at this stage conclude that the accused is not likely to commit any offence while on bail, thereby the condition imposed for grant of bail operates against the petitioner thereby the petition is liable to be dismissed.

11. In the result, the Criminal Original Petition stands dismissed.

sd/-
06/02/2023

/ TRUE COPY /

/02/2023

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

SJI

TO

1. THE SUPERINTENDENT,
DISTRICT PRISON,
NAGAPATTINAM.
2. THE INSPECTOR OF POLICE,
NAGAPATTINAM TOWN POLICE STATION,
NAGAPATTINAM DISTRICT.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.629 of 2023
Date : 06/02/2023

NA/SBN/SAR-I/14.02.2023/3P/4C

<https://www.mhc.tn.gov.in/judis>