



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

DATED : 29.03.2023

PRESENT

THE HONOURABLE MRS.JUSTICE R.THARANI

Crl.O.P. (MD)No.1436 of 2023

Sanmugam ... Petitioner / 3rd Accused

Vs.

State rep.by
The Inspector of Police,
NIB-CID, Dindigul District.
(Crime No.5 of 2022) ... Respondent / Complainant

For Petitioner : Mr.VR.Shanmuganathan, Advocate.

For Respondent : Mr.T.Senthilkumar,
Additional Public Prosecutor

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

PRAYER :-For Bail in Crime No.5 of 2022 on the file of the
respondent Police.

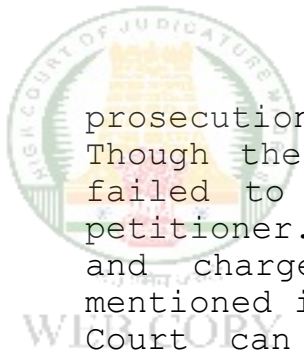
The Court made the following order :-

The petitioner/A3, who was arrested and remanded to judicial custody on 30.03.2022 for the offences punishable under Sections 8 (c), 20(b)(II)(c) and Sections 25 of NDPS Act, in Crime No.5 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 30.03.2022, based on the secret information given by the informant, the respondent police along with the police party conducted a vehicle check up at Vedasandur to Kakathoppu Vilakku Road Privu, at that time, the petitioner and others were found in possession of 215 kgs of Ganja. Hence, the complaint.

3. On the side of the petitioner, it is stated that based on the confession statement of the co-accused, this petitioner has been arrayed as A3 and no recovery was made from him. He further submitted that the petitioner is aged about 60 years, having some physical ailments, he has undergone surgery, he was taking treatment in the jail and he has to be referred to private hospital for better

There was no reply in the counter filed by the



prosecution with regard to the physical condition of the petitioner. Though there was a specific direction from this Court, the State failed to give any reply regarding the health condition of the petitioner. He further submitted that the investigation was over and charge sheet was already filed. Various violations were mentioned in the petition and the violations were not denied and the Court can presume that those violations were admitted by the prosecution. The petitioner is in custody for the past seven months and pray the petitioner to be released on bail.

4. On the side of the prosecution, it is stated that the petitioner and other accused were in possession of 215 kgs of Ganja. The quantity involved in this case is commercial in nature. The length of the period of custody and the fact that a charge sheet was filed were not sufficient grounds to consider the bail petition. He relied on a judgment of the Hon'ble Supreme Court reported in **2022 SCC OnLine SC 891**, in the case of **NCB Vs. Mohit Aggarwal**, wherein it is stated that in NDPS Act cases, jail is the rule and bail is an exception. The contraband were seized from the vehicle, wherein the petitioner was present. Whether the petitioner was having knowledge of the availability of the contraband in the vehicle, can be decided only at the time of trial and sufficient medical facilities were given to the petitioner in the jail. The petitioner was sent for medical examination on 26.07.2022 and on 15.07.2022 and the report says that he is stable and that he was not having any terminal illness.

5. On the side of the prosecution, it is further stated that the earlier petitions were dismissed on 16.09.2022 and on 22.11.2022, there is no change of circumstance. When there is no change of circumstance, subsequent bail petition cannot be entertained and prayed this petition to be dismissed.

6. Considering the seriousness of the offence alleged against the petitioner and considering the fact that the quantity involved in this case is commercial in nature and considering that medical facilities are available in the jail and in the Government Hospital, this Court is not inclined to grant bail to the petitioner.

7. Accordingly, this Criminal Original Petition is dismissed.

sd/-
29/03/2023

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/04/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

LS

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To

1.The Judge,
Speial Court for EC and NDPS Act Cases, Madurai.

2.The Inspector of Police,
NIBCID Dindigul Police Station,
Dindigul District.

3.The Superintendent,
Central Prison, Madurai.

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

ORDER

IN

CRL OP (MD) No.1436 of 2023

Date :29/03/2023

ED/CG/SAR-4 (05/04/2023) 3P 5C