



WEB COPY

CRL OP(MD).



23

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 06/03/2023

PRESENT

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

CRL OP(MD) . No.2252 of 2023

M.Bhuvanesh @ Bhuvaneshwaran, ... Petitioner/Accused No 5

Vs

The state rep by
The Inspector of Police,
Kodaikanal Police Station,
Dindigul District.
Crime No.303/2022.

... Respondent/Complainant

For Petitioner : M/s.Anbumanikandan K,
Advocate.
For Respondent : Mr.T.Senthilkumar,
Additional Public Prosecutor

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

PRAYER :-

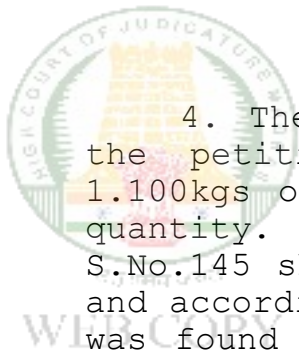
For Bail in Crime no.303/2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A5, who was arrested and remanded to judicial custody on 30.11.2022 for the offences punishable under Sections 8 (c)r/w.20(b)(ii)(B),20(b)(ii)(C),25 of NDPS Act in Crime No.303 of 2022 on the file of the respondent police seeks bail.

2. The case of the prosecution is that the petitioner along with other accused were found in possession of 1.100kgs of mushroom which comes under the Narcotics substance, hence the case.

3. The learned counsel for the petitioner would submit that the entire case is foisted one and the petitioner is innocent. He further submitted that the petitioner is in jail from 11.11.2022 and he is ready to abide by any stringent conditions that may be imposed on him, hence he may be granted bail.



4. The learned Additional Public Prosecutor would submit that the petitioner along with other accused were found in possession of 1.100kgs of mushroom, which falls under the category of commercial quantity. He would further submit that as per Notification in S.No.145 shows that 50gm of Psilocybine is a commercial quantity and according to the Regional Forensic Laboratory report Psilocybine was found in the mushroom and the recovered contraband is 50gm of mushroom. That apart the petitioner was found in possession of narcotics substances which falls within the commercial quantity and as such there is no bar under Section 37 of the NDPS Act and does he is not entitled for bail and prayed for dismissal of the petition.

5. It is seen that there are five accused in this case and the petitioner herein is arrayed as A5. The total quantity of contraband recovered from the petitioner is 50gms of Mushroom which falls within the commercial quantity. In the light of Section 37 of the NDPS Act, if the petitioner fails to satisfy the twin test as contemplated under Section 37 of the NDPS Act, the petitioner is not entitled for bail, hence this Court is not inclined to grant bail to the petitioner.

6. Hence this petition stands dismissed.

sd/-

06/03/2023

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/03/2022

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

AAV

TO

1. The Inspector of Police,
Kodaikanal Police Station,
Dindigul District.
2. The Officer Incharge,
District Prison, Dindigul.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER IN

CRL OP(MD) No.2252 of 2023

Date :06/03/2023