



WEB COPY

CRL OP(MD).



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

Date : 09/02/2023

PRESENT

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

CRL OP(MD) . No.2615 of 2023

1. Maathu
2. Murugan

... Petitioners/Accused No.1 & 2

Vs

The State rep.by,
The Inspector of Police,
Ramjee Nagar Police Station,
Trichy District.
Crime No.128 of 2022.

... Respondent/Complainant

For Petitioner : M/s.Dhilipan Pandian R.L.,
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.128 of 2022 on the file of the Respondent Police.

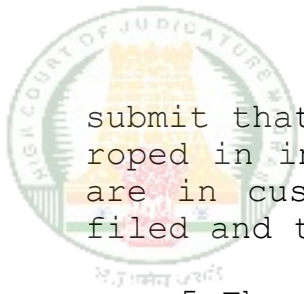
ORDER : The Court made the following order :-

The petitioners/A1 and A2, who were arrested and remanded to judicial custody on 29.04.2022 for the offences under Sections 8(C) r/w 20(b) (ii) (C) and 25 of NDPS Act, 1985 in Crime No.128 of 2022 on the file of the respondent police, seek bail.

2.The case of the prosecution is that on 29.04.2022, on secret information, the respondent police intercepted the vehicle driven by the accused and seized 22kgs of Ganja from the vehicle and A3 was escaped from the spot. Hence, case.

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

<https://www.mhc.tn.gov.in> The learned counsel appearing for the petitioners would



submit that the petitioners are innocents and they have been wrongly roped in in this case. He would further submit that the petitioners are in custody from 29.04.2022 and now the charge sheet has been filed and the trial has commenced. Hence, he would seek for bail.

5.The learned Additional Public Prosecutor appearing for the respondent would submit that it is a case that the petitioners, who are respectively the father and son, were intercepted and on search of their car, the respondent police recovered 22kgs of Ganja, which is a commercial quantity. He would further submit that the first petitioner has three previous cases registered under the NDPS Act and the second petitioner has three previous cases, out of which, two cases are registered for IPC offences and one is registered under the NDPS Act. He would further submit that the petitioners have not satisfied the conditions required under Section 37 of the NDPS Act for grant of bail. Further, the contraband was recovered from their possession and they are also consciously aware of possession of the contraband. Now the charge sheet has been filed and the trial has commenced.

6.Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor and perused the materials available on record.

7.The petitioners are arrayed as A1 and A2. The contraband involved in this case is 22kgs, which is a commercial quantity. Hence the petitioners have 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 believing that the accused is not guilty;
- c) they are not likely to commit any offence while on bail.

8.All submission of the petitioners 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 are not likely to commit any offence while on bail, thereby the condition imposed for grant of bail operates against the petitioners thereby the petition is liable to be dismissed.



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

sd/-
09/02/2023

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/02/2023

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

SJI

TO

- 1 THE INSPECTOR OF POLICE
RAMJEE NAGAR POLICE STATION,
TRICHY DISTRICT.
- 2 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- 3 THE OFFICER INCHARGE,
DISTRICT JAIL.
PUDUKOTTAI.

ORDER
IN
CRL OP(MD) No.2615 of 2023
Date :09/02/2023

VA/SBN/SAR-3/21.02.2023/2P/4C