



WEB COPY

CRL OP(MD).



23

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

Date : 14/03/2023

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD) . No.2954 of 2023

S.Mahendran

... Petitioner/Sole Accused

Vs

State represented by,
The Sub Inspector of Police,
Thanthonimalai Police Station,
Thanthonimalai,
Karur District.
Crime No.6/2023.

... Respondent/Complainant

For Petitioner : M/s.Maniyarasu.K.C.,
Advocate.

For Respondent : Mr.T.Senthil Kumar,
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime No. 6 of 2023 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner / Sole accused, who was arrested and remanded to judicial custody on 04.01.2023 for the alleged offences under Section 8(c) r/w 22(a) of NDPS Act, 1985 and under Section 328 of I.P.C and under Section 28(B) of Drugs and Cosmetics Act on the file of the respondent, seeks bail.

2. The case of the prosecution is that on 04.01.2023 at about 10.30 a.m., on secret information, the respondent went nearby Kaliyamman Temple and when they reached the place, the petitioner attempted to run away from the place of occurrence. When they

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inspect, he carried a bag containing banned drugs Paracetomal, Phenylephrine Hydrochloride, Caffeine and Diphenhydramine HCl Tablet-1 strip having 8 tablets. Hence, the case.

3. The learned counsel appearing for the petitioner would submit that the petitioner is a licence holder of a medical shop and he is running a medical shop in the name of M360. In fact, the said shop was closed one year ago. At the time of occurrence, he was at his home and a false case has been foisted as against the petitioner. He further submitted that the tablets allegedly seized from the petitioner are not coming under the NDPS Act.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner was in possession of relimet Paracetomal, Phenylephrine Hydrochloride, Caffeine and Diphenhydramine HCL Tablet 7 strip (63 tables) and it is a commercial quantity and opposed to grant bail to the petitioner.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. It is seen that the combination of paracetamol, Phenylephrine and Caffeine under Notification No.S.O.713E, dated 10.03.2016 is coming under the list of drugs prohibited for manufacture and sale through Gazette Notifications under Section 26 A of the Drugs and Cosmetics Act, 1940. That apart, it is a 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 to bail. Hence, this Court is not inclined to grant bail to the petitioner.

7. Accordingly, this Criminal Original Petition stands dismissed.

sd/-
14/03/2023

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/03/2023

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

PS

TO

1. The Officer In-Charge,
Kulithalai Sub Jail,
Karur District.



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2.The Sub Inspector of Police,
Thanthonimalai Police Station,
Thanthonimalai,
Karur District.

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

ORDER

IN

CRL OP(MD) No.2954 of 2023

Date : 14/03/2023

NA/MMS/SAR-2/20.03.2023/3P/4C