



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

Date : 13/03/2023

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN
CRL OP(MD) . 3541 of 2023

WEB COPY

Mohammed Abdul Rasheed

... Petitioner/Accused No.2

Vs

Union of India,
through, Intelligence Officer,
Narcotics Control Bureau,
Madurai Sub-Zone, Madurai.

... Respondent/Complainant

For Petitioner : Mr.J.Joseph Zinoson

For Respondent : Mr.C.Arul Vadivel @ Sekar
Senior Counsel

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

PRAYER :-

For Bail in NCB F.NO.48/1/04/2022/NCB/MDU on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/A2, who was arrested on 01.11.2022 and remanded to judicial custody on 02.11.2022 for the offences punishable under Section 8(c) r/w 20(c), 28 and 29 of NDPS Act in NCB F.NO.48/1/04/2022/NCB/MDU on the file of the respondent police, seeks bail.

2.The case of the prosecution is that based on the information received, the respondent/NCB Officers conducted an inspection and seized 4.440kgs of dark greenish sticky viscous liquid from the petitioner and A1. Hence, the complaint.

3.The petitioner's case is that he is an innocent person and he has not committed any offence as alleged by the prosecution. He also submitted that there are totally two accused and the petitioner was arrayed as A2. He is the student and he is pursuing B.com degree. The petitioner used to drive the car to meet out his educational expenditure. While the first accused was traveling in his car, the alleged contraband was seized by the respondent. The petitioner has absolutely no knowledge about the same and as such, he is not liable to the offence as alleged by the respondent. The petitioner has no previous case and it is the first accused, who is



liable for the offence.

4. The learned Senior Counsel appearing for the respondent would submit that the period of incarceration and non-filing of the final report cannot be amount to grant bail under the NDPS Act. Since there is a presumption under Section 35 of the NDPS Act that the Car, which was driven by the petitioner, in which the alleged contraband was found and that too now seized. Therefore, things can be loaded, without the knowledge of the petitioner. It is not the case of A1 alone to possess the contraband. A1 and A2 both were jointly possessing the same. The petitioner also made statement under Section 67 of the NDPS Act admitting his involvement in the crime.

5. In view of the above, it is the commercial quantity and as such, there is a bar under Section 37 of the NDPS Act. The petitioner also failed to make out *prima facie* case in order to satisfy the twin conditions as contemplated under Section 37 of the NDPS Act before this Court. Therefore, this Court is not inclined to grant bail to the petitioner. Accordingly, this Criminal Original Petition stands dismissed.

sd/-

13/03/2023

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/03/2023

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

RMK

TO

- 1 INTELLIGENCE OFFICER
NARCOTICS CONTROL BUREAU, MADURAI SUB ZONE,
MADURAI.
- 2 THE SUPERINTENDENT,
PALAYAMKOTTAI CENTRAL JAIL,
TIRUNELVELI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S. JOSEPH ZINOSON J Advocate SR.No.4216(I)

ORDER

IN

CRL OP (MD) No.3541 of 2023

Date : 13/03/2023