



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

Dated: 06/03/2023

PRESENT

THE HONOURABLE MR. JUSTICE G. ILANGO VAN

WEB COPY

Crl.OP(MD)No.4031 of 2023

Kumar @ Sivakumar : Petitioner/Accused No.4

Vs.

The State rep by
The Inspector of Police,
NIBCID Police Station,
Nagapattinam District.
(Crime No.15 of 2020)

: Respondent/Complainant

For Petitioner : Mr.K.M.Karunakaran, Advocate.

For Respondent : Mr.B.NambiSelvan,
Additional Public Prosecutor

PETITION FOR BAIL under Section 439 of Cr.P.C

PRAYER:For Bail in Crime No.15 of 2020 on the file of the respondent police.

ORDER: The Court made the following order:-

The petitioner, who is arrayed as A4 was arrested, on 25/04/2022 and remanded to judicial custody for the alleged offence punishable under section 8(c), 20(b)(ii)(C), 29(1) and 25 of NDPS Act, in Crime No.15 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 21/07/2020 at about 11.30 pm, near Pushpavanam seashore area, the de-facto complainant along with the police team were on their duty, at that time, the police informer identified two boats. One of the boats tied and identified by the police informer stating that the contraband is about to be transported to Srilanka through this boat. At that time, on 22/07/2020 at about 02.00 am, two persons came to the above said boat along with two bags and loaded the same in the boat. At that time, the police team intercepted and enquired them. They revealed their name and identified and from them, 36 kgs of ganja were seized, apart from one Cell Phone. They revealed their name as Mahendran and Dhanapal. On suspicion search was made, they were found in possession of 36 kgs of the contraband. Further process was undertaken as per the procedure. During the course of the



investigation, the involvement of the other persons also to light and the petitioner was arrested and remanded to judicial custody.

3. Now seeking bail, this petition has been filed stating that the co-accused has been granted bail by this court in Crl.OP(MD) No.4820 of 2022, dated 05/05/2022 and he is in custody for more than 300 days.

4. The learned Additional Public Prosecutor would submit that this is commercial quantity and so, the petitioner has to satisfy section 37 of the NDPS Act.

5. The earlier bail application filed by the petitioner was dismissed by this court, dated 31/10/2022 in Crl.OP(MD) No.17620 of 2022.

6. During the above said order, the learned Additional Public Prosecutor has submitted that CDR report, shows the conversation between the petitioner and the co-accused, has been recovered; Enough materials have been collected showing the involvement of this petitioner also; A3 was granted bail on the ground that except the confession statement of the co-accused, no other materials were available.

7. But so far as this petitioner is concerned, as stated above, CDR report is available to implicate this petitioner. Naturally, he has to satisfy the requirement of section 37 of the NDPS Act. Except stating that the co-accused has been granted bail, no other circumstance or material has been placed by the petitioner before this court to satisfy the requirement of section 37 of the NDPS Act.

8. So I find no merit in this petition, even though the petitioner is in custody for more than 300 days. As stated in the earlier order, the contraband has been recovered, when it was about to be transported to Srilanka through illegal boat. Considering the ramification of transfer of the contraband, the above said petition was dismissed.

9. The offence of such nature cannot be lightly taken. So, I find absolutely no reason to differ from the above said view taken by this court in the earlier order and accordingly, this petition is liable to be dismissed.

10. In the result, this criminal original petition is **dismissed**.

sd/-

06/03/2023

/ TRUE COPY /

/03/2023

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



Crl.OP(MD)



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To,

1.The Inspector of Police,
NIBCID Police Station,
Nagapattinam District.

2 The Superintendent, Central Prison, Trichy.

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

Crl.OP. (MD) No.4031 of 2023
06.03.2023

KB/SAR 4 (15.03.2023) 3P 4C