



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

Date : 20/03/2023

PRESENT

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

WEB COPY

CRL OP (MD) . Nos.3945 and 5205 of 2023

Vijay ... Petitioner/Accused
(Rank not known)
in CrI.O.P. (MD) No.3945 of 2023

Sethuraman ... Petitioner/Accused No.3
in CrI.O.P. (MD) No.5205 of 2023

Vs

The State rep.by,
The Inspector of Police,
Sedapatty Police Station,
Madurai District.
(Crime No.123 of 2022). ... Respondent/Complainant
in both petitions

For Petitioner (in CrI.O.P. (MD) No.3945 of 2023)
: M/s.Jegadeesh Pandian.M,
Advocate.

For Petitioner (in CrI.O.P. (MD) No.5205 of 2023)
: Mr.S.Muniyandi
Advocate.

For Respondent (in both petitions)
: Mr.T.Senthilkumar,
Additional Public Prosecutor

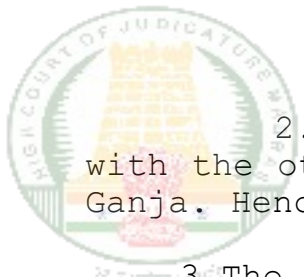
PETITIONS FOR BAIL Under Sec.439 of Cr.P.C

COMMON PRAYER :-

For Bail in Crime No.123 of 2022 on the file of the respondent police.

COMMON ORDER : The Court made the following order :-

The petitioners/A5 and A3, who were arrested and remanded to judicial custody on 10.10.2022 for the offences punishable under Sections 8(c) r/w 20(b)(ii)(C) and 29(1) of NDPS Act of I.P.C., in Crime No.123 of 2022 on the file of the respondent police, seek bail.



2.The case of the prosecution is that the petitioner along with the other accused were found in illegal possession of 24kgs of Ganja. Hence, the case.

3.The learned counsel for the petitioner in Crl.O.P.(MD)No.3945 of 2023 would submit that the petitioner's name was not found place in the FIR and there are only four accused involved in this case. Even according to the case of the prosecution, no recovery was made from the petitioner and only based on the confession statement of the co-accused, he has been implicated as an accused. He would further submit that according to the confession statement of A1 and A2, A3 alone purchased the Ganja from Andra Pradesh. Therefore, the petitioner is no way connected with the alleged crime.

4.The learned counsel for the petitioner/A3 in Crl.O.P.(MD) No.5205 of 2023 would submit that the petitioner is arrayed as A3, who is the father of A1 and A4 and he has been falsely implicated as an accused in this case and he has nothing to do with the crime as alleged by the prosecution. Even according to the case of the prosecution, there was no recovery made from the petitioner and except the confession statement, no other material to connect the petitioner along with the other accused persons.

5.Per contra, the learned Additional Public Prosecutor would submit that totally there are 14 accused in this case. The petitioners are arrayed as A3 and A5 respectively. Total recovery was made from the accused persons weighing 84kgs of Ganja. The matter is under investigation. The third accused is none other than the father of A1 and A4 and all the accused joined together and purchased Ganja from Andrapradesh and selling the same in Tamil Nadu. The allegation against the fifth accused is concerned, he used to transport the contraband from Madurai to Theni and sell it in local area in retail. In fact, the phone call details revealed that the petitioner/A5 who was in Andrapradesh, two days prior to the crime, had only purchased the contraband from Andrapradesh. The tower location is of the petitioner/A5 phone number located at Andra Pradesh and he had spoken to A1, while he was staying at Andra Pradesh for four days. Therefore, there are incriminating materials to show that both the accused were actively participated in the crime. Insofar as the petitioner/A3 is concerned, who is none other than the father of A1 and A4. When A1 to A3 were proceeding in their motorcycle along with the contraband, after seeing the police persons, A3 flew away from the place and the police only caught hold A1 and registered the FIR on the said date. Therefore, all the accused persons were consciously in joint possession of contraband weighing 84kgs of Ganja, which is a commercial quantity. Therefore, the petitioners have failed to satisfy the twin conditions as contemplated under Section 37 of NDPS Act. That apart, the petitioner/A3 also involved in one previous case of similar in nature.



6.Heard. Perused the materials available on record including the First Information Report.

7.Taking into consideration the nature of allegations levelled against the petitioners are very serious in nature and that the petitioners have failed to satisfy the twin conditions as contemplated under Section 37 of NDPS Act, this court is not inclined to grant bail to the petitioners.

8.Accordingly, these Criminal Original Petitions are dismissed.

sd/-
20/03/2023

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/04/2023

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

sj i

TO

- 1.THE SUPERINTENDENT,
CENTRAL PRISON,MADURAI.
- 2.THE INSPECTOR OF POLICE,
SEDAPATTY POLICE STATION,
MADURAI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP (MD) . Nos.3945 and 5205 of 2023
Date :20/03/2023

ED/VR/SAR-3 (03/04/2023) 3P/4C