



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



Date : 13/03/2023

WEB COPY

PRESENT

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

CRL OP(MD) . 4604 of 2023

P.Nagaraj (M/23/2023) ... Petitioner/Accused No.1

Vs

State rep., by
The Inspector of Police,
Velipalayam.
Nagapattinam District.
Crime No.33 of 2022

... Respondent/Complainant

For Petitioner : Mr.Manimaran NA
For Respondent : Mr.T.SenthilKumar
Additional Public Prosecutor

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

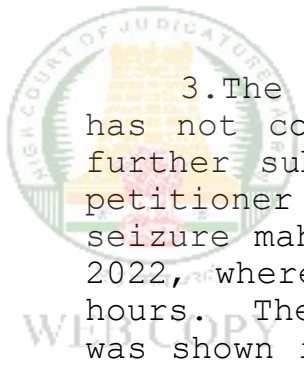
PRAYER :-

For Bail in Crime No.33 of 2022 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/A1, who was arrested on 18.01.2022 and remanded to judicial custody for the offences punishable under Sections 8(c) r/w 20(b), (ii) (C) and 25 of the NDPS Act in Crime.No.33 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that based on the secret information received, the respondent police conducted vehicle check-up at ECR Road near Bharathidasan University, at that time, one Maruthi Suzuki Swift bearing Registration No.AP-31-BY-1287 and Fiat Linea bearing Registration No.KL-01-BW-1431 were stopped by the respondent and found 8 white color gunny bags each 20kg ganja and one white color gunny bag 7kg ganja, totally 167kg contraband was found in the vehicles and the same was seized. Hence, the complaint.



3.The petitioner's case is that he is an innocent person. He has not committed any offence as alleged by the prosecution. He further submitted that the alleged contraband was seized from the petitioner on 18.01.2022 at about 10.35 hours as mentioned in the seizure mahazar and the seizure mahazar also mentioned FIR No.33 of 2022, whereas FIR has been registered on 18.01.2022 at about 12.30 hours. Therefore, even before registration of FIR, the crime number was shown in the seizure mahazar. That apart, the persons traveled in the other car were considered by this Court and granted bail to them. The respondent police also failed to follow the mandatory provision under Section 50 of the NDPS Act. Hence, the petitioner seeks indulgence of this Court to grant bail to him.

4.The learned Additional Public Prosecutor appearing for the respondent police submitted that based on secret information, the respondent police conducted an inspection and seized 167kg of kanja, which is in possession of the petitioner and other accused persons in order to sell the same. Thereafter, FIR was registered against the accused persons. It is the second application of the petitioner to grant bail. Earlier bail application was dismissed by this Court and there is no change of circumstances.

5. Considering the facts and circumstances of the case, this Court is of the view that though this Court granted bail to the other accused persons, who traveled in another car on the ground that they were not possessing any contraband, in the case on hand, the petitioner was possessing contraband weighing 167kg of kanja. Therefore, there is a presumption under Section 35 of the NDPS Act and it is the commercial quantity and as such, there is a bar under Section 37 of the NDPS Act, which mandates that the petitioner has to satisfy this Court there are reasonable grounds for believing that he is not guilty of such offence. 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.

6. Since the charge sheet in Crime NO.33 of 2022 has been filed before the NDPS Court, Thanjavur and the same has been taken cognizance in CC.No.93 of 2022, the trial Court is directed to proceed and conclude the same within a period of four months from the date of receipt of a copy of this order.

sd/-

13/03/2023

/ TRUE COPY /

/03/2023

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



TO

1 THE PRINCIPAL SPECIAL JUDGE
FOR EC & NDPS ACT CASES, THANJAVUR.

2 THE INSPECTOR OF POLICE,
VELIPALAYAM, NAGAPATTINAM DISTRICT.

3 THE OFFICER IN CHARGE,
DISTRICT PRISON,
NAGAPATTINAM.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP (MD) No.4604 of 2023

Date :13/03/2023

MGJ/SBN/SAR 3(24.03.2023) 3P 5C