



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

Date : 29/03/2023

PRESENT

WEB COPY

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

CRL OP(MD) . No.4880 of 2023

Krishna Moorthi @ Chaina Kozhi

... Petitioner

Vs

The State represented by
The Inspector of Police,
Kottar Police Station,
Kanyakumari District
(Crime No.135 of 2022).

... Respondent

For Petitioner : M/s.Muneeswaran B,
Advocate.

For Respondent : Mr.T.Senthilkumar,
Additional Public Prosecutor

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

PRAYER :-

For Bail in Cr No.135/2022 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/A2 who was arrested and remanded to judicial custody on 22.03.2022 for the offence punishable under Sections 8(c) r/w 20(b)(ii)(c) of NDPS Act in Crime No.135 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 21.03.2022 at 12.00 hours, on receipt of secret information, the respondent police conducted raid near Ottuvalmadam Railway Station and on seeing the police, the petitioner and other accused person tried to escape from that place, but the respondent police nabbed A1 and seized 21 kgs of ganja from him. Hence, the case.

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

4.Even according to the case of the prosecution, there was no recovery from the petitioner and only on the confession statement of the first accused, he has been implicated as an accused. That apart, the petitioner was arrested and remanded to judicial custody on 22.03.2022. After completion of investigation, the respondent police has completed investigation and filed a final report before the Special Court for EC & NDPS Act Cases and the same has been taken cognizance in C.C.No.481 of 2022.



5.A perusal of the counter affidavit filed by the respondent police reveals that the petitioner is a habitual offender and he was also involved in three previous cases. On the date of occurrence, the petitioner was also very much present along with A1 and after seeing the police party, the accused persons are tried to flee from the scene of occurrence. However, the first accused had caught hold by the respondent and the petitioner is escaped from the scene of occurrence. On the very next day, the petitioner was arrested and remanded to judicial custody based on the confession of the first accused. The petitioner along with A1 were in joint possession of ganja weighing 21 kgs, which is a commercial quantity. Further, the petitioner has failed to satisfy the twin condition as contemplated under Section 37 of NDPS Act.

6.Taking into consideration of the facts and circumstances of the case and also the fact that the petitioner has failed to satisfy the twin conditions as contemplated under Section 37 of NDPS Act, this Court is not inclined to grant bail to the petitioner.

7.Hence, this petition is dismissed.

sd/-

29/03/2023

/ TRUE COPY /

/04/2023

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

TO

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

+1 CC to M/s.C.M.MARICHELLIAHPRABHU, Advocate (SR-5127[I] dated 30/03/2023)

ORDER

IN

CRL OP(MD) No.4880 of 2023

Date :29/03/2023

SS/BUC/SAR IV/20/04/2023/2P/5C