



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 28/03/2023

WEB COPY

PRESENT

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

CRL OP(MD). No.4731 of 2023

Jothibasu,

... Petitioner/Accused No.2

Vs

State Rep.by
The Inspector of Police,
Sellur Police Station,
Madurai City,
Madurai.
in Crime No.743/2022.

... Respondent/Complainant

For Petitioner : M/s.Niranjana S Kumar, Advocate.

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

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

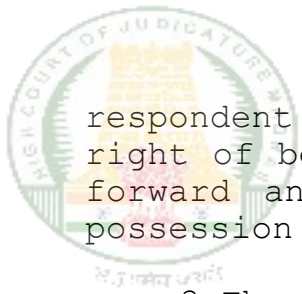
PRAYER :-

To enlarge the petitioner/A2 on bail in C.C.No.107/2023 on the file of learned Principal Special for Trial of NDPS Act Cases, Madurai.

ORDER : The Court made the following order :-

The petitioner/A2 who is facing trial for the offences punishable under Sections 8(c), 20(b)(ii)(c), 29(1) of Narcotic Drugs and Psychotropic Substances Act, 1985 in C.C.No.107 of 2023 on the file of the learned Principal Special Court for Trial of Narcotic Drugs and Psychotropic Substances Act Cases, Madurai, in Crime No.743 of 2022 on the file of the respondent police seeks bail.

2.The case of the prosecution is that on 12.08.2022, at about 13.15 hours, based on a secret information, the respondent at about 13.45 hours, had gone near the Vaigai Vadagarai Service Road. On suspicion, they had stopped A1 to A6 and at that time, all the accused tried to escape from the scene of occurrence, however, the



respondent police caught them and explained about the right of being search before Magistrate and the first accused, came forward and gave voluntary confession statement that she was in possession of 22.500 kgs of ganja. Hence, the case.

3.The learned counsel appearing for the petitioner would submit that totally there are six accused and the petitioner herein arrayed as A2. There was some dispute between her family members and neighbors and a murder case also pending. Therefore, one of the family members already sent representation to all the authorities concerned for consideration. Hence, the respondent police apprehended that there was high chances of retaliation and hence, the present case came to be registered. At the time of occurrence, there was no recovery from the petitioner. Even according to the prosecution, the contraband recovered only from A1. All the occurrences were recorded in the CCTV. Though the petitioner and other accused applied before RTI about CCTV footages, the respondent police and other officials denied to give the same. That apart, now investigation completed and final report also filed, which was taken cognizance in C.C.No.107 of 2023 and the same is pending for trial. He would further submit that the petitioner has been implicated only based on the confession statement of the co-accused and it cannot be relied upon and sought for bail to the petitioner. In support of his contention, he relied upon the judgment of the Hon'ble Supreme Court of India.

4.Per contra, the learned Additional Public Prosecutor appearing for the respondent police would submit that A1 to A6 were in illegal possession of 22.500 kgs of ganja. The family members of the petitioner doing this business as family business and the petitioner was in possession along with other accused. Now, charge sheet filed and case is pending for trial. Therefore, he vehemently opposed to grant bail to the petitioner.

5.Heard both sides and perused the materials available on record including the First Information Report.

6.Admittedly, the petitioner and other accused were in constructive and conscious possession of 22.500 kgs of ganja. That apart, the petitioner failed to satisfy the twin conditions as contemplated under Section 37 of NDPS Act. Hence, this Court is not inclined to grant bail to the petitioner. Accordingly, this criminal original petition is dismissed.

sd/-
28/03/2023

/ TRUE COPY /

/05/2023

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



1 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

2 THE INSPECTOR OF POLICE
SELLUR POLICE STATION, MADURAI CITY, MADURAI.

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

+1 CC to M/s.NIRANJAN.S.KUMAR, Advocate (SR-5094[I] dated 29/03/2023

ORDER

IN

CRL OP(MD) No.4731 of 2023

Date :28/03/2023

PKP/VS/SAR-3/11.05.2023/ **3P/5C**