



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 11/04/2023
PRESENT

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

CRL OP(MD) . No.5908 of 2023

1.Thangapandian
2.Mahalakshmi

... Petitioner/Accused 1 & 2

Vs

State through
The Inspector of Police,
Sellur Police Station,
Madurai City.
(Crime No.755 of 2022)

... Respondent/Complainant

For Petitioner : Mr.M.JEGADEESH PANDIAN, Advocate
For Respondent : Mr.T.SENTHIL KUMAR,
Additional Public Prosecutor

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

PRAYER :- For Bail in Crime No.755/2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A1& A2, who were arrested and remanded to judicial custody on 17.08.2022 for the offences punishable under Sections 8(c) r/w 20(b)(ii)(C), 25 and 29(i) of NDPS Act, in Crime No.755 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that based on 17.08.2022 at about 13.30 hours, the Sub-Inspector of Police had received a secret information from the informant and the same was informed to the Inspector of Police, entry was made in General Diary, subsequently, he along with other constables namely Senthil Pandian HC (3380), Rajesh Gr.-1 HC (4066) and Nithya Femal Gr.1 HC (810) and informant went to the place of occurrence at Sellur Vaigai Vadakarai Service Road, Kumaran Salai Junction, Madurai, at about 14.00 hours, the informant identified an auto bearing Registration No.TN 64 A 5071 and the informant left the place, on seeking the police four persons in the vehicle namely 1.Thangapandian, 2.Mahalakshmi, 3.Chella Veer and 4.Manoharan tried to fled away, but the respondent had nabbed them, on suspicion the officials enquired them, they revealed their identity and they found that the accused was found in possession of ganja, after exhausting the remedy under Section 50 of NDPS Act, at about 14.15 hours he prepared consent search letter, at about 14.30 hours the accused were arrested and confession statements were



recorded upto 15.30 hours. 23.500kgs of ganja was recovered from the vehicle, it was seized after taking samples, the accused persons were brought to the respondent police station at about 16.40 hours, finally, they registered a case at about 16.45 hours. Hence, the complaint.

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3. The learned counsel for the petitioners submitted that the petitioners were taken to police custody on 16.08.2022 itself with contraband. Therefore, the present case was foisted against the petitioners, since they already involved similar type of offence that too smaller quantity. They have been implicated as accused in this case only based on the confession statement. Therefore, they sought for CCTV footage on the day of occurrence that is on 17.08.2022. However, the respondent rejected on the ground that CCTV footage were not sought for any public interest. Hence, he filed an appeal and the same was rejected on the ground that CCTV footage were not available on the date, since there is an error in the Digital Video Recorded Unit. That apart, he submitted that the second petitioner now suffering with renal failure and right now, she has been admitted in Government Rajaji Hospital, Madurai and taking treatment. Therefore, adverse inference has to be drawn in favour of the petitioners.

4. It is seen that the petitioners along with two others were found in possession of 23.500kgs of Ganja. It is commercial quantity. Only the ground taken by the petitioners that they were taken judicial custody on 16.08.2022 itself and foisted a false case, they sought CCTV footage on 17.08.2023 and the same was rejected on the ground that CCTV footage was not working on the day. Though even assuming that the petitioners were taken to judicial custody on 16.08.2022 and thereafter, the respondent shown their arrest only on 17.08.2022 along with contraband, it is the matter for trial and it cannot be decided in the bail application. Since the contraband were seized from the petitioners, the custodial interrogation of the petitioners is very much required. That apart, it is the commercial quantity and as such, there is a bar under Section 37 of the NDPS Act. The petitioners 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 petitioners. Accordingly, this Criminal Original Petition stands dismissed. However, the Jail Authorities are directed to consider the health condition of the second petitioner, if she is suffering from renal failure.

sd/-

11/04/2023

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



RMK
TO

- 1 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 2 THE OFFICER INCHARGE,
SPECIAL PRISON FOR WOMEN, MADURAI.
- 3 THE INSPECTOR OF POLICE,
SELLUR POLICE STATION,
MADURAI CITY.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.5908 of 2023

Date :11/04/2023

SA/CG/SAR.1/17.04.2023/3P/5C