



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

Date : 17/04/2023
PRESENT

WEB COPY

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

CRL OP(MD) . 6350 of 2023

M.Eswaran

... Petitioner/Accused 6

Vs.,

The State rep., by
The Inspector of Police,
NIBCID Police Station,
Thoothukudi District.
(In Crime no.14 of 2022)

... Respondent/Complainant

For Petitioner : Mr.M.RAMU, Advocate
for Mr.S.KANAGARAJ, Advocate

For Respondent : Mr.T.SENTHIL KUMAR
Additional Public Prosecutor

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

PRAYER :- For Bail in Crime No.14 of 2022 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/A6, who was arrested and remanded to judicial custody on 05.09.2022 for the offences punishable under Sections 8(c), 20(b)(ii)(c), 29(1) and 25 of NDPS Act in Crime No.14 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that based on the information received, the respondent police conducted an inspection at Thoothukudi to Madurai Main Road near Pudhur Pandiyapuram Check, Bharath Petrollyam, at that time, Eicher vehicle bearing Registration No.TN 84 M 4213 was coming and the same was stopped by the respondent police and search the vehicle. Thereafter, it was found that 8 white color gunny bags each 20kg of Ganja and one white color gunny bag 20kg of Ganja, totally 437kg of Ganja in the bag and the same was seized from A1 and confession statement was recorded. Hence, the complaint.

3. The learned counsel for the petitioner submitted that except the confession of A5, there is absolutely no material produced by



the prosecution to connect the petitioner in this case. The petitioner never committed any offence in this FIR. The other accused persons were arrested and remanded to judicial custody on 16.07.2022, whereas the petitioner was arrested only on 05.09.2022. There was no recovery from the petitioner and the petitioner is not owner of the lorry, which allegedly contained the contraband. He further submitted that no one has spoken about the petitioner's involvement in this case. The first accused was arrested with the contraband and he confessed about A5, who is the owner of the lorry. Other accused also could not even disclosed about the petitioner's overt act. Therefore, the petitioner has been falsely implicated in this case. Hence, he seeks bail.

4. The learned Additional Public Prosecutor submitted that there are totally six accused, in which, the petitioner is arrayed as A6. On the confession statement recorded from the accused, A5 has been implicated as an accused, who is the owner of the lorry. On the confession of A5, the petitioner has been implicated as an accused. The Eicher lorry bearing Registration No.TN TN 84 M 4213 originally was parked by the petitioner in the PKR Truck Parking. The said parking place was owned by Saravanakumar, who was examined as L.W.11. He has spoken that Eicher Lorry bearing Registration No.TN 84 M 4213 was parked by the petitioner on 07.07.2022 at about 2.14pm. Thereafter, the first accused, after paying Rs.800/- as parking charge, has taken the vehicle on 15.07.2022. On perusal of parking registration note, wherein the petitioner signed and parked the vehicle on 07.07.2022. That apart, fast track was connected with the petitioner's account. In every toll gate while the said vehicle was crossing, the fast track was activated and the charges were deducted from the petitioner's account. These are all the materials to connect the petitioner in this case.

5. In view of the above, all the accused persons were conscious and constructive possession of contraband weighing 437kgs and it is the commercial quantity. That apart, 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.

sd/-

17/04/2023

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/04/2023

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



RMK
TO

1 THE INSPECTOR OF POLICE,
NIBCID POLICE STATION,
THOOTHUKUDI DISTRICT.

2 THE SUPERINTENDENT,
CENTRAL PRISON,
PALAYAMKOTTAI.

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

ORDER

IN

CRL OP (MD) No.6350 of 2023

Date :17/04/2023

SA/VR/SAR.3/27.04.2023/3P/4C