



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

Date : 14/06/2023

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN
CRL OP(MD). No.10501 of 2023

WEB COPY

E.Kumar

... Petitioner/Accused No.2

Vs

State represented through,
The Inspector of Police,
Perayurani,
Thanjavur District.
Crime No.537 of 2022

... Respondent/Complainant

For Petitioner : Mr.M.Ramu
for Mr.NA.Manimaran

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.537 of 2022 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner / Accused No.2, who was arrested and remanded to judicial custody on 28.08.2022 for the alleged offences under Sections 8(c) r/w 20(b)(ii)(c), 25 and 29(i) of NDPS Act in Crime No.537 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 24.08.2022 based on secret information, the respondent police, conducted a vehicle check-up at Siththadhikaadu Main junction, at that time, they searched the vehicles bearing Registration Nos.TN-67-AK 6252 and TN-48-AJ-2013 and found eight white colour gunny bags each containing 20 kgs of Ganja and one white colour gunny bag containing 20 kgs of Ganja and totally 461 kgs of contraband was found in the bag and the same was seized by the respondent. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is arraigned as Accused No.2. Even according to the prosecution, the alleged contraband was found in possession of A.1, A.5 and A.6. Only on their confession statement, the petitioner has been implicated in this case. There was no recovery from the petitioner, and the seizure mahazar does not speak about the petitioner. That apart, they seized leaves, greens and seeds. It would not amount to Ganja.



4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner is closely associated with other accused in this case and opposed for granting bail to the petitioner.

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

6. On perusal of the counter-affidavit filed by the respondent revealed that though the contraband was seized from A.1, A.5 and A.6, the first accused went to Andhra Pradesh in order to procure Ganja and transported to Tamil Nadu. There were call details also available in which nearly 1440 times A.1 and A.2 had spoken between them. Further, on 23.08.2022 i.e., prior to the occurrence date nearly 38 times, the second accused spoken with the first accused. The first accused nearly 29 times spoken to the second accused. Therefore, there is active involvement between A.1 and A.2. The petitioner failed to fulfil the twin conditions as contemplated under Section 37 of the NDPS Act in order to satisfy the Court. That apart, the ground raised by the petitioner can be considered only during the trial at the time of the investigation whether the contraband seized from the accused would amount to Ganja or not. There is absolutely no change in circumstances. Therefore, this Court is not inclined to grant bail to the petitioner. Accordingly, this Criminal Original Petition is dismissed.

sd/-

14/06/2023

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/ 06 /2023

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

PS
TO

1. The Inspector of Police,
Perayurani Police Station, Thanjavur District.

2. The Superintendent, Central Prison, Pudukottai.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER

IN

CRL OP(MD) No.10501 of 2023

Date :14/06/2023