



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 09/08/2023

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.OP(MD)Nos.13833, 13849 and 13837 of 2023

(1).Crl.OP(MD)Nos.13833 and 13849 of 2023:-

M.Karthi : Petitioner in Crl.OP(MD)
No.13833 of 2023/ A1

A.Parameshwaran : Petitioner in Crl.OP(MD)
No.13849 of 2023/ A2

Vs.

The State thro' Inspector of
Police,
Madhichiyam Police Station,
Madurai.
(In Crime No.217 of 2023)

: Respondent/Complainant

For Petitioner : Mr.A.Raja
(in both cases)

For Respondent : Mr.S.Ravi
(in both cases) Additional Public Prosecutor

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

PRAYER:-For Bail in Crime No.217 of 2023 on the file of the Respondent Police.



(2).Crl.OP(MD)No.13837 of 2023:-

A.Parameshwaran : Petitioner/ A2

Vs.

The State thro' Inspector of Police,
Thiruppalai Police Station,
Madurai.
(In Crime No.81 of 2023) : Respondent/ Complainant

For Petitioner : Mr.A.Raja

For Respondent : Mr.S.Ravi
Additional Public Prosecutor

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

PRAYER:- For Bail in Crime No.81 of 2023 on the file of the Respondent Police.

COMMON ORDER: The Court made the following order:-

The petitioners in Crl.OP(MD)No.13833 and 13849 of 2023/A1 and A2, who were arrested and remanded to judicial custody, on 11/03/2023 for the offences punishable under sections 8(c), 20(b)(ii)(c), 25, 29(1), 25(1)(a) of Narcotic Drugs and Psychotropic Substances Act, in Crime No.217 of 2023 on the file of the respondent police, seeks bail, whereas Crl.OP(MD)No.13837 of 2023 has been filed by A.Parameshwaran seeking bail in respect of Crime No.81 of 2023 on the file of the respondent for the alleged offence under sections 8(c), 20(b)(ii)(c), 25, 29(1), 25(1)(a) of Narcotic Drugs and Psychotropic Substances Act.



2.The case of the prosecution in brief, in Crime No.217 of 2023:-

The de-facto complainant was the Sub Inspector of Police. On 11/03/2023 at about 02.00 pm, he received secret information from the police informer along with his police team, they went to the Madurai Town Vaigai Vaikarai Road. At about 02.45 pm, the police informer identified the vehicle bearing registration No.39-AK-8181. That was intercepted. The driver was one Karthi. Search was made on suspicious and Ganja was recovered weighing about 45 kgs. Sampling was undertaken as per the rules and procedure. The above said Karthi was arrested and remanded to judicial custody.

3.During the course of enquiry, the above said Karthi disclosed that 45 kgs of Ganja was hidden in another Car bearing registration No.TN-10-AS-5395 near Dindigul Bus Stand. In view of the above said disclosure, the above said Car was also identified. Search was made and in the above said Car, found in possession of 45 kgs of Ganja and sampling was undertaken. Search was made to secure this petitioner, but could not succeed. The total contraband that was seized, in both the occurrence is 88 kgs. On the basis of the above said occurrence, a case in Crime No.217 of 2023 was registered as noted above.

4.Seeking anticipatory bail, Crl.OP(MD)Nos.13833 and 13849 of 2023 filed by A1 namely Karthi and A2 Parameswaran.

5.The case of the prosecution in respect of Crime No.81 of 2023:-

On 12/03/2023 at about 11.30 pm, while the respondent police conducting regular patrolling duty on Kadachanedhal to Oomachikulam junction, at that time, the first accused was driving the vehicle bearing registration No.TN-65-AE-6565. It was stopped and checked by the police party, found in possession of 72 of Ganja.



6. During the course of enquiry, the involvement of the second petitioner, who is the wife of the first petitioner also came to light. On the basis of the above said occurrence, a case in Crime No.81 of 2023 was registered as noted above.

7. Seeking bail, CrI.OP(MD)No.13837 of 2023 was filed by A.Parameshwaran.

8. Heard both sides.

9. An elaborate argument has been advanced by the learned counsel appearing for the petitioners.

10. So far as A1 namely M.Karthi is concerned, he was acting as Driver for the co-accused namely A.Parameshwaran. In the course of the above said employment only, he parked the vehicle in the Spencer Compound in Dindigul, from where he was taken by the Special team, was beaten up. He was taken to the co-accused A.Parameshwaran's house at about 07.30 am, wherein also, he was beaten and detained illegally. He was remanded to judicial custody, on 12/03/2023. At that time, he disclosed the same to the Remanding Magistrate. On 11/03/2023, the wife of A.Parameshwaran lodged a complaint against the illegal activities of the Special Team. So, according to him, A1-M.Karthi is not involved in transporting and selling of the contraband, since he is acting as a Driver of the co-accused and he has been wrongly implicated.

11. Per contra, the learned Additional Public Prosecutor would submit that along with the contraband, this petitioner/A1 was arrested in the place of occurrence



itself and on his statement only, A2 was arrested from where the remaining portion of the contraband has been recovered. Since the petitioners alleged to have been arrested along with the contraband in the place of occurrence itself, unless the petitioners is able to satisfy the requirement of section 37 of the NDPS Act, they are not entitled for the discretionary relief. Except stating that A1 was acting only as a driver of A2 and he was illegally taken by the Special Team, no other point worth considering has been made by him to satisfy the requirement of section 37 of the NDPS Act.

12. Even though, A1-M.Karthi is in custody for more than 200 days, duration of the custody cannot be taken into account, because of the above said recovery of huge quantity of contraband. So, CrI.OP(MD)No.13833 of 2023 is liable to be dismissed.

13. In so far as A2-A.Parameshwaran is concerned, the learned counsel appearing for the petitioner in CrI.OP(MD)Nos.13849 and 13837 of 2023 would submit that section 50 of the NDPS Act has not been complied and the previously case has been registered, because of his business activity in the course of Car driving. He would also rely upon the GPS track record of the Car bearing registration Nos.TN-39-AU-8181 and TN-10-AS-5395 for the purpose of argument that the above said record will indicate that they were not present in the place of occurrence as mentioned by the prosecution. According to him, GPS instruments put up in the two vehicles will indicate the location details. According to him, from the above said GPS details, it has been satisfactorily explained by him, the allegations mentioned in the FIRs are not true and correct. So according to him, this is sufficient to satisfy the requirement of section 37 of the NDPS Act. All those details cannot be a matter for consideration by this court. All those things can be taken into account only at the time of trial. It is also submitted that he has filed CrI.OP(MD)No.8970 of 2023 directing the



respondent police to preserve CCTV footage that was available in various places as mentioned by him in the petition. It is also stated to be pending.

WEB COPY

14.Per contra, the learned Additional Public Prosecutor would submit that the accused A.Parameswharan is involved in more than 50 cases. Out of 50 cases, most of the offences are under the provisions of NDPS Act, theft, etc.

15.In response to the above said, it has been submitted by the learned counsel appearing for the accused A.Parameshwaran that since the accused A.Parameswharan has been implicated in so many theft cases, this false case has been foisted.

16.Reading of the list shows that through out India cases have been registered against the accused namely A.Parameshwaran, either for theft or for dealing with contraband. Such a person is not entitled for bail at all. There is no guarantee that he will not commit similar or other offence while on bail. Even though, he is in custody for more than 200 days, considering the bad antecedents of the petitioner, his request deserves to be rejected and accordingly, CrI.OP(MD)Nos.13837 and 13849 of 2023 are also liable to be dismissed.

17.In the result, all the criminal original petitions are dismissed.

sd/-

09/08/2023

/ TRUE COPY /

/09/2023

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



TO

1 The Officer Incharge
District Prison, Theni.

2 The Officer Incharge
District Prison, Virudhunagar.

3.The Inspector of Police,
Thiruppalai Police Station,
Madurai District.

4.The Inspector of Police,
Madhichiyam Police Station,
Madurai.

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

ORDER

IN

Crl.OP(MD)Nos.13833, 13849 and 13837 of 2023

Date :09/08/2023

SSA/JGB/14.09.2023/7P/6C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023