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CRL OP(MD). N



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 06/01/2023

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD). No.21020 of 2022

Benjamin Fraklin ... Petitioner/Accused No.2

Vs

The State rep.by
The Inspector of Police,
Town North Police Station,
Dindigul.
(Crime No.20 of 2022).

... Respondent/Complainant

For Petitioner : M/s.Mayil Vahana Rajendran C,
Advocate.

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

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

PRAYER :-

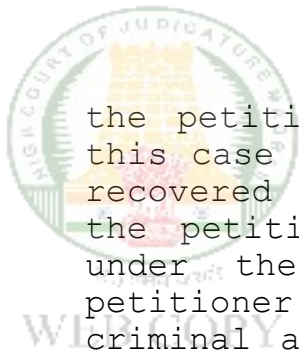
For Bail in Crime No.20 of 2022 on the file of the Respondent Police

ORDER : The Court made the following order :-

The petitioner/A2, who was arrested and remanded to judicial custody on 07.01.2022 for the offences punishable under Sections 8 (c)r/w.20(b)(ii)(C), 25 of NDPS Act in Crime No.20 of 2022 on the file of the respondent police, seeks bail.

2. Notice was issued to the learned Additional Public Prosecutor and counter was filed by the prosecution.

3. The learned counsel for the petitioner would submit that
<https://www.mhc.tn.gov.in/judis>



the petitioner is innocent and he has been falsely implicated in this case and he is no way connected with the crime and nothing was recovered from him and there is no material on record to connect the petitioner with the crime and that the mandatory conditions under the NDPS act were not complied with by the respondents. The petitioner is in custody from 07.01.2022 and the petitioner has no criminal antecedents and the long incarceration before the trial would cause grave injustice to the petitioner and his family members and that the petitioner is ready to abide by any conditions that shall be imposed by this Court. Hence he seeks bail.

4. The learned Additional Public Prosecutor would submit that the due search was conducted and the contraband was seized from the unlawful possession of the accused and if he is released on bail there is every possibility of absconding and committing offence of similar nature and there is every possibility of him interfering with further investigation. He would further submit that the petitioner was found in possession of 22.200 kgs ganja and the said quantity involved in the case is commercial quantity which attracts Section 37 of NDPS Act. Hence he strongly opposed to grant bail to the petitioner/accused.

5. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor and perused the materials available on record.

6. The petitioner is arrayed as A2. The contraband involved in this case 22.200 kg which is commercial quantity. Hence the petitioner has to satisfy three conditions under section 37 of NDPS Act:

- a) opportunity to the Public Prosecutor to oppose the bail
- b) *prima facie* satisfaction regarding availability of ground for believing that the accused is not guilty.
- c) he is not likely to commit any offence while on bail.

7. All submission of the petitioner with regard to the falsity of the case and against the possession of illicit articles and culpable mental state are ground for defence which can be kept open for consideration at the time of the trial.

8. On the broad probabilities of this case this Court at this juncture is unable to record its satisfaction on the existence of any substantial and probable cause for believing that the accused is not guilty of the offences charged.

9. This Court cannot at this stage conclude that the accused is not likely to commit any offence while on bail, thereby the condition imposed for grant of bail operates against the petitioner thereby the petition is liable to be dismissed.



10. In the result, the Criminal Original Petition stands dismissed.

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06/01/2023

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

TO

- 1 The Principal Special Judge,
For EC and NDPS Act cases,
Madurai.
- 2 The Inspector of Police,
Town North Police Station,
Dindigul.
- 3 The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ORDER
IN
CRL OP(MD) No.21020 of 2022
Date :06/01/2023

VA/VR/SAR-3/11.01.2023/3P/4C