



Crl.O.P.(MD)Nos.20241 to 20243 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 12/12/2023

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.OP(MD)Nos.20241 to 20243 of 2023

(1)Crl.OP(MD)Nos.20241 and 20243 of 2023:-

A.Parameshwaran : Petitioner in Crl.OP(MD)
No.20241 of 2023/A2

M.Karthi : Petitioner in Crl.OP(MD)
No.20243 of 2023/A1

Vs.

The State thro' Inspector of Police,
Madhichiyam Police Station,
Madurai.

(In Crime No.217 of 2023) : Respondent/Complainant

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

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

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

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

(2).Crl.OP(MD)No.20242 of 2023:-

A.Parameshwaran : Petitioner/A1

Vs.



Crl.O.P.(MD)Nos.20241 to 20243 of 2023

The State thro' Inspector of Police,
Thiruppalai Police Station,
Madurai.

(In Crime No.81 of 2023) : Respondent/Complainant

For Petitioner : Mr.C.M.Arumugam
for 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)Nos.20241 and 20243 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) and 25(1)(a) of Narcotic Drugs and Psychotropic Substances Act, in Crime No.217 of 2023 on the file of the respondent police, seek bail, whereas Crl.OP(MD)No. 20242 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) and 25(1)(a) of Narcotic Drugs and Psychotropic Substances Act.



CrI.O.P.(MD)Nos.20241 to 20243 of 2023

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 suspicion 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.



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Crl.O.P.(MD)Nos.20241 to 20243 of 2023

4. Seeking bail, Crl.OP (MD) Nos. 20241 and 20243 of 2023 have been 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, Crl.OP (MD) No. 20242 of 2023 was filed by A. Parameshwaran.

8. Heard both sides.



Crl.O.P.(MD)Nos.20241 to 20243 of 2023

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9.Repeated applications filed by the petitioners herein got dismissed. These bail applications are filed by the petitioners raising some new grounds along with the petition in Crl.OP(MD)No.8970 of 2023 seeking for direction to the respondents 3 to 7 therein to preserve CCTV Footage available in the said toll plaza to send the CCTV Footage to the file of the Principal Special Judge of NDPS Act Cases, Madurai.

10.For producing the CCTV footage available in the toll plaza area, petition has been filed stating that the Investigating Officer or the Arresting Officer has not come to the Court with clean hands; Even as per the records available to the prosecution, it is seen that only after 27 hours of the arrest, Karthi was remanded to custody. Similarly, the accused Parameswaran was also not arrested, as mentioned above, the Arresting Officer or the Investigating Officer, as the case may be.

11.As mentioned above, he would submit that the Car, which allegedly contained the contraband crossed Cuddalore road at about 2.30 am itself, which is evident from the CCT footage available in the toll plaza. So the story of the prosecution that Parameswaran was arrested in the time mentioned in the remand report is factual



Crl.O.P.(MD)Nos.20241 to 20243 of 2023

incorrect. So according to him, this material now produced by the petitioner was sufficient enough to dispel bar under section 37 of the NDPS Act.

12.He was also taking me through various documents such as remand report and remand order date and the date of FIR received by the concerned Judicial Magistrate, the complaint given by the accused namely Vijayalakshmi, the wife of the accused Parameswaran on the early date on 11/3/02022 itself.

13.Elaborate submissions were made on either side.

14.Before we go into the factual aspect, it is seen that the petitioner namely Parameswaran is not a man of good conduct. In the course of his business of car dealing, he involved in various offences. So, he was booked in various cases. Among the various cases, two are under the provisions of NDPS Act.

15.The wife of Parameswaran is a practising Advocate. She was also roped into the offence, arrested and remanded to custody. She moved bail application before this court and I had an occasion to deal the matter. After going through the entire records, the bail



CrI.O.P.(MD)Nos.20241 to 20243 of 2023

was granted to the wife of the Parameswaran with certain conditions.

16.But the fact remains that Parameswaran is not having good conduct as mentioned above. So the case against the above said Parameshwaran must be carefully dealt with.

17.So far as the accused Karthi is concerned, who is the driver of the above said Parameshwaran must also be seriously dealt with. Since the contraband is the commercial quantity, then naturally, as mentioned above, section 37 of the NDPS Act must be complied.

18.First, we will take up the alleged complaint given by the wife of Parameswaran, as mentioned above, dated 11/03/2023. In the letter, she has stated that Parameshwaran left the house stating that he will return to the house after attending the business work. At 02.00 pm on 11/03/2023, he contacted her at about 07.00 pm. He told that he will return before 08.30 pm. Again she contacted at 08.30 pm, but he could not contact. He returned to the house and on enquiry, the neighbours told that at about 08.00 pm, some four or five persons took her husband and his vehicle also.



CrI.O.P.(MD)Nos.20241 to 20243 of 2023

19.By pointing out this, the learned counsel appearing for the petitioners would submit that Parameshwaran was taken by the police, on 11/03/2023 at about 08.00 pm.

20.Per contra, the learned Additional Public Prosecutor would submit that absolutely, there is no indication that the complaint was given, on 11/03/2023. No receipt is also produced by her. But the complaint was registered in CSR No.383 of 2023 on 15/03/2023 at about 08.15 pm by the Dindigul Taluk Police. Then the wife of Parameswaran also signed in the CSR.

21.Per contra, the learned counsel appearing for the petitioners would rely upon the messages sent by the wife. Again, it is seen that the messages were sent only on 12/03/2023 and not on 11/03/2023. It is an online complaint. The date is also mentioned as 13/02/2023 at 07.03 am. So this cannot be taken to mean that on 11/03/2023 itself, Parameshwaran was taken into custody by the police.

22.Another complaint was given by the wife of Parameshwaran, on 13/03/2023, wherein she has stated that on 11/03/2023, she went to the parking station where her



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CrI.O.P.(MD)Nos.20241 to 20243 of 2023

husband BMW Car No.TN-01-AS-1111 was parked by the co-accused Karthi. At that time, she was told that five or six persons claiming themselves to be police people took Karthi in another four wheeler by leaving another Car. This complaint was also sent through registered post on 13/03/2023 at 09.40 am. FIR was registered, on 12/03/2022 at about 11.30 am. They reached the residence of the Special Judge at about 07.45 am, on 12/03/2023. In the FIR, it has been stated that at about 02.45 pm near Vaikai Vadakarai Road, Aasari Thope junction area, the Car was intercepted, where the Karthi was apprehended along with the contraband. Athachi was prepared at 05.40 pm between 05.45 pm and 06.30 pm. On the basis of the disclosure statement made by Karthi, another vehicle bearing registration No.TN-10-AS-5395 was searched, wherein they found 45 kgs of Ganja. Simultaneously, another occurrence said to have been taken place. On the basis of the secret information received by the Thirupallai Police Inspector that on 12/03/2023 at about 10.00 pm, the Car bearing registration No.TN-65-AE-6565 was intercepted at about 11.30 pm. The occupant was apprehended. He disclosed his name as Parameshwaran. He was arrested, on 13/03/2023 at about 00.10 hours. He was remanded before the Special Judge, on 13/03/2023 at about 09.50 pm. At that time, he disclosed that he



CrI.O.P.(MD)Nos.20241 to 20243 of 2023

suffered injuries because of the assault made by the Special Team personnels. During remand, he has stated that he was arrested on Saturday at 07.30 pm. He was taken to various places in Chennai in the Car No.TN-65-AE-6565. He was not arrested by Thirupallai Police, but the Special Team. The Car bearing registration No.TN-65-AE-6565 crossed the Toll plaza, on 11/03/2023 at about 08.24.05 am and BMW Car on 11/03/2023 at about 05.00 am, 07.54.12 am in the tool plaza and another Car on 13/03/2023 at about 02.12.00 am. The Car bearing registration No.TN-65-AE-6565 crossed Samayanallur-Dindigul road, on 13/03/2023 at about 02.12 am at Kozhinjipatti Toll Plaza.

23.By pointing out these sequence of events, it has been stated that the arrest, recovery are all stage-managed events by the Special Police Team. The reason for the non recovery of the vehicle, even at the first instance it is not properly explained by the prosecution. Similarly, the delay in remanding the accused before the Special Judge is also not properly explained.

24.Per contra, the learned Additional Public Prosecutor would submit that after arresting the accused, he was taken to various places. Naturally time spent on



CrI.O.P.(MD)Nos.20241 to 20243 of 2023

the travelling must be excluded from the time limit of 24 hours. But this contention cannot be accepted. According to the learned counsel appearing for the petitioners, if only the travelling time between the place of arrest and remanding court exceeds 24 hours, then only it can be deducted.

25. But here, after the arrest, if there was no possibility for the Arresting Officer to produce the accused within 24 hours, they ought to have taken the accused for producing before the nearest Magistrate. But these things were not followed.

26. According to the learned counsel appearing for the petitioners, arrest and remand itself are illegal, these are sufficient enough to dispel the mandatory provisions of section 37 of the NDPS Act.

27. No doubt that there are some issues with regard to the time of arrest. But the question which arises for consideration is whether this is sufficient enough to enlarge the petitioners on bail.

28. But I am of the considered view that this cannot be and should not be. The 1st petitioner is an habitual



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Crl.O.P.(MD)Nos.20241 to 20243 of 2023

offender involving in several cases. As mentioned above, huge quantity of contraband has been recovered. 2nd petitioner is an assistant of the 1st petitioner. If released on bail, there is no guarantee that they will not commit similar offence during bail period.

29.Now the final report has also been filed, taken cognizance by the Special Court, I am of the considered view that no specific ground is made out by the petitioners to enlarge them on bail. They can very well approach the trial court for bail in the manner known to law, after the examination of the material witnesses, on sufficient ground if available. I find no reason to entertain these petitions, once again.

30.In the result, all the criminal original petitions are **dismissed**.

12/12/2023

Index:Yes/No
Internet:Yes/No

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CrI.O.P.(MD)Nos.20241 to 20243 of 2023

To,

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- 1.The Inspector of Police,
Thiruppalai Police Station,
Madurai District.
- 2.The Inspector of Police,
Madhichiyam Police Station,
Madurai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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CrI.O.P.(MD)Nos.20241 to 20243 of 2023

G. ILANGO VAN, J

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CrI.OP (MD) Nos.20241 to 20243 of 2023

12/12/2023