



CRL OP(MD). No.19935 of 2023

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

Date : 20/11/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD). No.19935 of 2023

Arun @ Arunkumar

... Petitioner / Accused No.4

Vs

The State, rep by
The Inspector of Police,
Kadamalaikundu Police Station,
Theni District.
(Crime No.35/2023.)

... Respondent / Complainant

For Petitioner : M/s.S.Jayaprakash, Advocate.
For Respondent : Mr.S.Ravi,
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime No. 35/2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A4, who was arrested and remanded to judicial custody on 24.01.2023 for the offences punishable under Sections 8(c)r/w.20(b)(ii)(C),25 and



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29(1) of NDPS Act in Crime No.35 of 2023 on the file of the respondent police, seeks bail.

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2. The case of prosecution is that on 24.01.2023 on receipt of secret information the respondent police conducted search near Ayyanar Temple in Ayyanarpuram at about 3.00 and on suspicion they intercepted vehicle bearing Reg. No. TN 55 CZ 1518 and recovered 61kgs of ganga from the vehicle, hence the case.

3. The learned counsel for the petitioner would submit that 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 24.01.2023 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. He would further submit that the petitioner has been implicated as an accused based on the confession given by the co-accused. Hence he seeks bail.

4. The learned Additional Public Prosecutor would submit that this petitioner is the supplier of contraband and from this petitioner A1 and A2 got contraband and



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they are selling to general public. Further there are sufficient materials available to connect the petitioner with the crime. CDR report shows that there has been frequent calls between this petitioner and other accused. Further there was also some money transactions between this petitioner and the other accused. Further 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 61 kgs ganja and the said quantity involved in the case is commercial quantity which attracts Section 37 of NDPS Act. He would further submit that the petitioner has not satisfied the twin conditions under section 37 of the 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 61 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.



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c) he is not likely to commit any offence while on bail.

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7. 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.

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

sd/-
20/11/2023

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/11/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AAV

To

1.The Inspector of Police,
Kadamalaikundu Police Station,
Theni District.

2.The Officer Incharge,
Sub Jail,
Theni.

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



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ORDER

IN

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Date :20/11/2023

ED/JGB/SAR- (21/11/2023) 5P / 4C

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