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CRL OP(MD). N



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

Date : 23/01/2023

PRESENT

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

CRL OP(MD). No.22249 of 2022

1. Antony Raj

2. Christopher

... Petitioners/Accused No.6 & 8

Vs

The state represented by
The Inspector of Police,
Jetty Police Station,
Ramanathapuram District.
Crime No.103 of 2022.

... Respondent/Complainant

For Petitioner : M/s.Sekar.S,
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.103 of 2022 on the file of the respondent police.

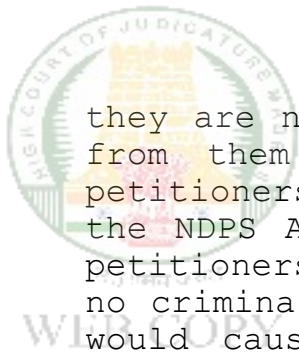
ORDER : The Court made the following order :-

The petitioners/A6 & A8, who were arrested and remanded to judicial custody on 23.07.2022. for the offences punishable under Sections 8(C) r/w 20(b)(ii)(B), 25, 23(C) and 28 of NDPS Act, in Crime No.103 of 2022 on the file of the respondent police, seek bail.

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

3.The learned counsel for the petitioners would submit that the petitioners are innocents and they have been falsely implicated in the case based on the confession statement of the co-accused and

<https://www.mca.gov.in>



they are no way connected with the crime and nothing was : ed from them and there is no material on record to connect the petitioners with the crime and that the mandatory conditions under the NDPS Act were not complied with by the respondent police. The petitioners are in custody from 23.07.2022 and the petitioners have no criminal antecedents and the long incarceration before the trial would cause grave injustice to the petitioners and their family members and that the petitioners are 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 petitioners along with the other accused were arrested along with the contraband of 25 kgs of Ganja and during the course of investigation, they also submitted that they have purchased the Ganja for transporting and smuggling it to Sri Lanka and the petitioners were arrested in the same place of occurrence along with the contraband and there is a presumption with regard to the culpable mental state and the amount of contraband recovered in this case is a commercial quantity and the petitioners have not complied with the condition under Section 37 of the NDPS Act and if they are released on bail there is every possibility of absconding and committing the offence of similar nature and there is every possibility of them interfering with further investigation. Hence he strongly opposed to grant bail to the petitioners/accused.

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

6.The petitioners were arrayed as A6 and A8. The contraband involved in this case is 25kgs, which is a commercial quantity. Hence the petitioners have 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) they are not likely to commit any offence while on bail.

7.All submission of the petitioners with regard to 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. As
thereby the petition is liable to be dismissed.

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

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23/01/2023

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/02/2023

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

TO

- 1 THE INSPECTOR OF POLICE
JETTY POLICE STATION, RAMANATHAPURAM DISTRICT.
- 2 THE OFFICER INCHARGE, DISTRICT PRISON, PUDUKKOTTAI.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.SEKAR.S Advocate SR.No.3477(F)

ORDER
IN
CRL OP(MD) No.22249 of 2022
Date :23/01/2023

SS/MMS/SAR-II/01.02.2023/3P/5C