



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

Date : 13/03/2023

PRESENT

The Hon`ble **Mr.Justice G.K.ILANTHIRAIYAN**

CRL OP(MD).Nos.23022, 23023,
23009 and 23020 of 2022

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Crl.O.P(MD).No.23022 of 2022

R.Karukolarajasekar ... Petitioner/Accused rank not known
Vs

State rep., by
The Inspector of Police,
Sedapatty Police Station,
Madurai District.
Crime No.123 of 2022

... Respondent/Complainant

For Petitioner : Mr.M.Ramu, Advocate
for Mr.NA.Manimaran, Advocate
For Respondent : Mr.T.Senthilkumar
Additional Public Prosecutor

Crl.O.P(MD).No.23023 of 2022

R.Matsyarasa Devaraju ... Petitioner/Accused rank not known
Vs

State rep., by
The Inspector of Police,
Sedapatty Police Station,
Madurai District.
Crime No.123 of 2022

... Respondent/Complainant

For Petitioner : Mr.M.Ramu, Advocate
for Mr.NA.Manimaran, Advocate
For Respondent : Mr.T.Senthilkumar
Additional Public Prosecutor

Crl.O.P(MD).No.23009 of 2022

V.Sare Palavenkata Giripabu ... Petitioner/Accused NO.12
Vs

State rep., by
The Inspector of Police,
Sedapatty Police Station,
Madurai District.
Crime No.123 of 2022

... Respondent/Complainant



For Petitioner : Mr.M.Ramu, Advocate
for Mr.NA.Manimaran, Advocate
For Respondent : Mr.T.Senthilkumar
Additional Public Prosecutor

Crl.O.P(MD).No.23020 of 2022

V.Pusarala Harish ... Petitioner/Accused rank not known
Vs

State rep., by
The Inspector of Police,
Sedapatty Police Station,
Madurai District.
Crime No.123 of 2022

... Respondent/Complainant

For Petitioner : Mr.M.Ramu, Advocate
for Mr.NA.Manimaran, Advocate
For Respondent : Mr.T.Senthilkumar
Additional Public Prosecutor

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

COMMON PRAYER :-

For Bail in Crime NO.123 of 2022 on the file of the respondent police.

COMMON ORDER : The Court made the following order :-

The petitioners, who were arrested on 15.10.2022 and remanded to judicial custody on 17.10.2022 for the offences punishable under Section 8(c) r/w 20(b)(ii)(C), 25 and 29(i) of NDPS Act in Crime No.123 of 2022 on the file of the respondent police, seek bail.

2.The case of the prosecution is that based on the secret information received, the respondent police conducted an inspection at Kalapanpatti near cement water tank at 06.00am on 07.10.2022. On seeing the police, the accused persons fled away from the scene of occurrence and the police apprehended A1 and A2 and seized two gunny bags of 24kg. Hence, the complaint.

3.The learned counsel for the petitioners submits that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. He also submitted that the respondent failed to follow the procedure as contemplated under Sections 42, 50, 52A and 57 of the NDPS Act and the petitioners are kept in illegal custody by the respondent for a period of three days from 15.10.2022 to 17.10.2022. The recovery of alleged contraband from the petitioners was effected during the illegal detention. That apart, the petitioners are implicated in the offence based upon



the confession statement of the co-accused. He also relied on the judgment of this Court made in Crl.O.P(MD).No.4000 of 2023 dated 10.03.2023, wherein this Court held that based on the confession, no person can be implicated as accused, when no recovery from him and granted bail to him.

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4. The learned Additional Public Prosecutor appearing for the respondent police submits that the confession of statement of A6, who was arrested and remanded to judicial custody on 13.10.2022, reveals that the contraband was purchased from A7 to A10 and sell it through A11 to A14 to various persons in Tamil Nadu. The said confession also disclosed the fact that A11 to A14 are having 60kg of Ganja in order to hand over the same to A3. They were waiting for instructions of A6. On the said information furnished by A6 on 16.10.2022, the respondent secured A11 to A14 and recovered 60kg of Ganja kept in two vehicles bearing Registration No.AP 39 U 3062 Tata Innova Car in which 40 kg of Ganja was seized and another vehicle bearing Registration NO.AP 39 CR 1946 Maruti Eeco in which 20 kgs of Ganja was seized. Therefore, the judgment relied upon by the petitioners' counsel is not suitable for the present cases. That apart, the confession statement of arrested persons also reveal the same. Therefore, the petitioners were under the possession of 60kg of Ganja jointly and it was a commercial quantity. Therefore, there is a bar under Section 37 of the NDPS Act.

5. In view of the above, it is the commercial quantity and as such, there is a bar under Section 37 of the NDPS Act. The petitioners also failed to make out *prima facie* case in order to satisfy the twin conditions as contemplated under Section 37 of the NDPS Act before this Court. Therefore, this Court is not inclined to grant bail to the petitioners. Accordingly, these Criminal Original Petitions stand dismissed.

sd/-

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/ 03 /2023

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

Rmk

TO

1.The Inspector of Police,
Sedapatty Police Station,
Madurai District.



2. The Officer In-Charge, District Jail, Madurai.

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

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ORDER
IN
CRL OP (MD) .Nos.23022, 23023,
23009 and 23020 of 2022
Date :13/03/2023

RD/SBN/SAR-IV (24/03/2023) 4P 4C