



CRL OP(MD) No.3114 of 2024

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

Monday, the Twenty Fifth day of March Two Thousand and Twenty Four
PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI
CRL OP(MD) Nos.3114 & 3606 of 2024

IRUTHAYA JENISH

... PETITIONER/ ACCUSED NO.4
IN CRL OP(MD).3114/2024

S.BALAN

... PETITIONER/ ACCUSED NO.3
IN CRL OP(MD).3606/2024

Vs

THE INSPECTOR OF POLICE
THIRUCHENDUR POLICE STATION,
THOOTHUKUDI DISTRICT.
CRIME NO.164 OF 2023.

... RESPONDENT/COMPLAINANT
IN BOTH CRL OP's

For Petitioner
(In CRL OP(MD).3114/2024)

: M/S.P.THANGA PRITHVIRAJAN, Advocate

For Petitioner
(In CRL OP(MD).3606/2024)

: M/S.L.K.CHARLES ALEXANDER, Advocate

For Respondent
(In Both CRL OP's)

: MR.B.NAMBISELVAN,
Additional Public Prosecutor

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

COMMON PRAYER : FOR BAIL IN CRIME NO.164 OF 2023 ON THE FILE OF THE
RESPONDENT POLICE.

COMMON ORDER : The Court Made the following order :-

The petitioners/A4 and A3, who were arrested and remanded to judicial



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custody, for the offences under sections 8(c) r/w sections 20(b)((ii)(C) and 25 of NDPS

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Act, in Crime No.164 of 2023 on the file of the respondent Police, seeks bail.

2.The case of the prosecution is that the de-facto complainant received a secret information that Ganja was transported illegally, Wherein on surveillance at about 01.00 pm near Kumarapuram. At that time, they found the vehicle bearing registration No.TN-92-E-6345 and the same was intercepted. He has stated to be taken to another route. So, they went near Kumarapuram area. At that time, they found the above said vehicle parked. The people engaged in loading boxes. On seeing the police party, all the accused persons escaped from that place. Only Ramesh was present in the above said place. He informed that that above said coconut thope belongs to one Abibu and his parents are maintaining the above said thope. He also stated that one Balan, who is the paternal junior uncle came to that place along with his friends namely Muthu Dinesh and Saruk Raja for taking bath. Following the above said vehicle, another vehicle bearing registration No.TN-92-D-5342 came to that spot and transporting the boxes to the vehicle parked bearing registration No.TN-92-E-6345. After loading the same, Balan, Iruthaya Jenish, Kalimuth and Atriyen went away from that place in another vehicle. They made a search in the vehicle parked TN-94- E-6345. It was found loaded with Ganja. Further process was undertaken as per rules. Vehicles were also seized. They found 120 kgs of Ganja.



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Based upon the above said occurrence, the case was registered in Crime No.154 of 2023 for the offences as stated above. This petitioners were arrested and remanded to judicial custody.

3. Seeking bail, these petitions have been filed by the petitioners on the ground that absolutely, these petitioners are not involved in the above said offence and they were not at all present; only abandoned vehicle was seized by the police and found in possession 120 kgs of Ganja; Only based upon the confession statement of the co-accused and the information furnished by one Prakesh, they have been wrongly implicated; No other bad antecedent is also reported against them. Further, he produced the photocopy of a compound wall, wherein, the accused persons were caught hold by the respondent Police and from the said compound wall, no one can escape from the Police. Hence, he prays for grant of anticipatory bail.

4. Per contra, the learned Additional Public Prosecutor would submit that the presence of this petitioners have been verified by the de-facto complainant party and on the basis of the statement, they are also referring to. Wherein, it has been stated that the third accused watched the movement of public and Police by his Mahindra Pickup vehicle bearing Registration No.TN-92-D-5342 and brought the Ganja to seashore area for transporting the same to Srilanka. The first and second accused are the prime accused. On instruction of the first and second accused namely Irudhaya



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Jenish, the attempt of Ganja transportation has been done. The present petitioners were also present, when the Police team entered into the above said coconut tope. So according the learned Additional Public Prosecutor, the presence of the petitioners have been verified and so the contention on the part of the petitioners that they are no way involved is not correct on record.

5. Even though, the petitioners are not having any bad antecedent, considering the quantity of the contraband involved, unless the petitioners are able to satisfy the requirement of section 37 of the NDPS Act, they are not entitled for bail. If they are released on bail, there is every likelihood of committing the similar offence, while on bail. Hence, this Court is not inclined to grant bail to the petitioners. However, after the seizure procedure is over, the concerned Magistrate and the respondent Police are directed to comply with the guidelines enumerated under section 52(A) of NDPS Act and as per the guidelines issued by the Hon'ble Supreme Court of India in the case of Union of India Vs. Mohanlal and Another ((2016) 3 SCC 379).

6. In the result, both Criminal Original Petitions are dismissed.

sd/-
25/03/2024

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/05/2024
Sub-Assistant Registrar (C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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TO

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1 THE INSPECTOR OF POLICE, THIRUCHENDUR POLICE STATION,
THOOTHUKUDI DISTRICT.

2 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI.

3 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) Nos.3114 & 3606 of 2024

Date :25/03/2024

RS/GS/SAR-(06.05.2024) 5P 5C

Madurai Bench of Madras High Court is issuing
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